

GREATER LONDON AUTHORITY

(by email)

Our reference: MGLA210725-0467

18 August 2025

Dear

Thank you for your request for information which the Greater London Authority (GLA) received on 21 July 2025. Your request has been considered under the Freedom of Information Act (FOI) 2000.

You requested:

Having reviewed the lease in detail, I would appreciate further clarification on several important points that were not fully addressed in the documents disclosed:

1. GLA Oversight and Inspection Evidence: While the lease (notably Clauses 5, 6, and 26, and associated definitions) sets out that the developer must obtain Compliance Certificates and appoint inspectors approved by the GLA, it does not confirm whether:
 - a. The GLA or its agents carried out "independent technical assessments, inspections, or audits" of roads, open spaces, or services infrastructure;
 - b. Any "final handover documents or sign-off reports" were issued by GLA or its representatives.
 - c. Could you please confirm if such inspections or validations took place and provide any associated records or reports?
2. Developer-Appointed Management Company – Conflict of Interest Risk:
 - a. The lease confirms that the "Management Company" responsible for maintaining the Common Areas was appointed by the developer (BDW) and is funded by residents. This arrangement is outlined in the Estate Management Scheme and related lease terms.
 - b. Has the GLA conducted any "governance review or risk assessment" on the independence of this structure?
3. Future Adoption or Transfer of Infrastructure:
 - a. Are there plans or provisions for adoption of roads, footpaths, drainage or open space by Croydon Council or any other public authority?
 - b. If applicable, please provide related correspondence, adoption conditions, or proposed timescales.
4. Resident Complaints and GLA Action:
 - a. Has the GLA or GLAP received any resident complaints, performance concerns, or non-compliance issues related to the Cane Hill Park site?
 - b. If so, please share a summary of such issues and any response or enforcement action taken by the GLA.

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Our response to your request is as follows:

- GLA Oversight and Inspection Evidence:

The GLA had/has no day-to-day responsibilities for the management of the construction or on-going management of the development, therefore no inspections of open spaces, roads or services have been undertaken by the GLA. The build lease agreement required the builder to obtain and carry out the construction of the development in line with the planning consent and the relevant building control/regulation requirements.

The completion compliance of the highways, sewers, drains and other services meant these and other services ancillary to and reasonably necessary for the proper enjoyment of the dwelling have been completed, commissioned and are ready for use by the dwelling or occupiers. The GLA agreed with the Developer that CML (Council for Mortgage Lenders) sufficed as a confirmation of highways, sewers and drains being complete. CML certification can be provided for your plot if you provide your plot number.

- Developer-Appointed Management Company – Conflict of Interest Risk:

We do not believe that any governance or risk assessment was carried out.

The GLA has no day-to-day responsibilities over the management company or its performance or accountability which currently sits with the developer.

The developer upon request has provided the attached Management Agreement for your information.

- Future Adoption or Transfer of Infrastructure:

Please refer to the copy of the lease agreement document provided previously – specifically sections 7,8,9,10 setting out the arrangements for transferring of common areas, common services and highways and remainder of land on the development to the management company. This work is currently underway to transfer the remaining land to the management company.

We do not hold related correspondence, adoption conditions, or proposed timescales.

- Resident Complaints and GLA Action:

Please find below content from our correspondence management system that references 'Cane Hill':

Ref	Text
*0775	The number of flats being erected in Coulsdon in the last few years is immense (e.g. Cane Hill, Leaden Hill, Fairdene Road, 76 Reddown Road, the current 156 flats being currently build in Lion Green Road at the heart of our town, and dozens of others).
*2195	[Section 40 Personal information] (Cane Hill Park, Optivo) that requires substantial remedial works due to noise and vibration issues. The disruption and impact of this cannot be understated. I have two questions: 1.) Our Shared Ownership lease states (clause 6.6) If the whole or any part of the Premises (or the Common Parts necessary for access to it) are destroyed

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	or damaged by fire or any other risks covered by the Landlord's insurance so as to be rendered unfit for use then (unless the insurance money is irrecoverable by reason of any act or default of the Leaseholder) the Specified Rent or a fair proportion of it shall be suspended until the Premises (and the Common Parts necessary for access) are again fit for use. Can you please advise on whether residents can legitimately be asked to pay the specified rent during the decant, when we have been told we must "vacate your home to carry out vital building works" Ditto for the service charge. Optivo have recently emailed and stated they expect both the specified rent and service charge to be paid, whilst we are forced out due to the works (these have been delayed multiple times and the expected time has increased to 42 weeks) Does the NHBC warranty still in effect count as "landlord's insurance" for the purposes of the above? 2.) Should the housing association Optivo offer a buyback option. It seems they were aware of the noise/vibrations transference issue as early as 2018 but continued to sell flats to leaseholders without making them aware of it. What would such a buyback look like in practice? For example, would mortgage interest and shared ownership rent be paid back to residents? What valuation would be used? Any other information around this would be helpful. In answer to this question: "Please confirm if Optivo will buy back flats? If not, are shared owners able to sub-let their flats?" Optivo's response was: [Section 40 Personal information]
*7348	<i>11.64 An area of moderate residential growth based on available land will be focussed on the District Centre and its surrounding area with a new residential community, delivered in Cane Hill. Residential development will respect the existing character and local distinctiveness.</i> The character of the road is one of widely-spaced detached and semi-detached houses with large verdant gardens. The proposed development does not respect the existing character and presents intense, not moderate residential growth.
*2577	FOI Request includes reference to bicycle storage: FOI - Cane Hill Development [Oct 2024] London City Hall
*1889	[Section 40 Personal information] I understand, finally the roads will be handed over by the developer. However, the current condition of roads may require some maintenance works before it can be handed over. I have raised this issue several times with the developer and management teams but no luck. Therefore, GLA, as a main land owner and development partner, hopefully will be able to raise this issue with the developer. Possibly a condition survey carried out by 3rd party independent engineer should clarify if there are any maintenance required before hand over after years of contruction traffics used this road.
*4541	Thank you for the effort and response. Please see attached screenshot the number of times I have raised this issue with FirstPort. They just close the query without taking any action! I have in touch with the voluntary directors as well and they have provided me the below response: <i>"We have forwarded your concerns on to the shadow directors for Cane Hill. Unfortunately the Residents' Association does not get involved with the Management Company directly as such, but you do raise a very valid point so thank you for raising this with us."</i>

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	The Cane Hill Drive is still being managed (until December for sure) by Barratt due to the ongoing construction work. I have contacted Barrat Homes several time regarding the road issue as well as snagging of the house, see attached email. I find their response incorrect considering the attached extract and the response from the voluntary directors. Just for the information, I have purchased this house over 5 and half years now and the developer yet to complete the snagging works! Therefore, the only option I found is to contact directly to the Mayor of London as being the JV partner of this development.
*9022	I wonder if there is a process to add new areas to ULEZ? We live in a private estate (about 600 homes) on the border of ULEZ zone. Local motorists drive through our estate and parking their cars on our roads to avoid ULEZ. This generates noise and air pollution and makes our roads less safe. The are multiple play grounds dotted along the main road that was not planned or designed for heavy traffic. Location details: Croydon - Cane Hill Park https://www.barrattdevelopments.co.uk/showcase/cane-hill https://www.hta.co.uk/project/cane-hill
*0420	I am researching some historical information that would previously have been held by English Partnerships (or Homes & Communities Agency) in the late 1990s / early 2000s in relation to Cane Hill Hospital, Coulsdon, Surrey. CR5 3YL. I have previously contacted Homes England and GLAEnquiries regarding this matter without success. Homes England told me that they would have passed any information about Cane Hill onto the GLA around 2012 and GLAEnquiries drew a blank and suggested I make an FOI request to the GLA, which I am now doing. As background, around late 1990s / early 2000s, English Partnerships added Cane Hill Hospital to the Hospital Sites Programme for re-purposing or redevelopment and there would have been surveys and other specialists' reports regarding the condition of the property/site that would have covered its structure and condition, including the presence of hazardous materials. Normandie Analytical Services (NAS Ltd) are likely to have participated in the hazardous material analysis and production of a risk report of the site contents. Squibb Group Ltd were contracted for the demolition of the site including removal of the hazardous materials. I would like to request copies of any such site survey reports that you may hold, particularly in relation to the presence of hazardous materials / asbestos at Cane Hill. These would have likely been produced between about 1998 and 2005 prior to redevelopment of Cane Hill. If your search time permits, please can you also widen the search and supply me with any other documents you may hold specifically concerning the presence of asbestos - at Cane Hill Hospital between 1993 and 2008.
*2577	[Section 40 Personal information]
*6013	Under the Freedom of Information Act 2000, I am writing to request detailed information regarding the Cane Hill Park development in Coulsdon, specifically in relation to infrastructure that remains under the ownership of GLA Land and Property Limited (GLAP). 1. I kindly request the following: 1. Ownership and Land Status - Please confirm the current ownership status of all communal infrastructure (including internal roads, public open spaces, and footpaths) within the Cane Hill Park development.

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	- Please provide a map or breakdown of land parcels that remain under GLAP ownership as of the date of this request. 2. Agreements with Developer - Please provide copies of or detailed summaries of all development agreements, leases, build leases, or service-level arrangements between GLAP and the developer (Barratt Developments and its affiliates) concerning this site. - Please outline the developer's specific responsibilities for constructing, maintaining, and/or handing over communal infrastructure and public assets. - Is there any agreement or timeline for adoption of roads and open spaces by the local authority or another body? 3. Oversight, Monitoring, and Handover Assurance - What surveys, technical assessments, or inspections were conducted by GLAP or its representatives to confirm that the developer constructed the GLA-owned infrastructure to the required standards? - Were completion certificates or handover reports issued for roads, (especially after the roads were intensively used by BDW construction traffics), open spaces, or other communal infrastructure? - If no such surveys were conducted, please explain what quality assurance process was followed to validate developer compliance before transfer or continued GLA ownership. 4. Management Structure and Potential Conflicts of Interest - The maintenance costs of these GLA-owned infrastructures are currently borne by residents through payments to the Cane Hill Park Management Company, which was appointed by the developer. - Does the GLA consider this arrangement to pose a potential conflict of interest, given the developer's role in both building the infrastructure and appointing the entity responsible for maintaining it? - Has the GLA conducted any review or audit of this governance structure, particularly to protect residents' interests? 5. Complaints and Compliance - Has the GLA or GLAP received any complaints, reports of non-compliance, or correspondence from residents regarding the condition or ongoing management of infrastructure on GLA-owned land at Cane Hill Park? - If so, please summarise the issues raised and any actions taken by the GLA or GLAP in response. I would prefer the response in electronic format (PDF or Word). If this request exceeds the cost limit or requires clarification, please contact me so I can refine the scope.*6013
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If you have any further questions relating to this matter, please contact me, quoting the reference MGLA210725-0467.

Yours sincerely

Information Governance Officer

If you are unhappy with the way the GLA has handled your request, you may complain using the GLA's FOI complaints and internal review procedure, available at:

<https://www.london.gov.uk/about-us/governance-and-spending/sharing-our-information/freedom-information>

Management Agreement

relating to Cane Hill Park, Coulsdon

- (1) BDW Trading Limited
- (2) Cane Hill Park (Coulsdon) Management Company Limited
- (3) Chamonix Estates Limited

Dated 17 July 2018

Osborne Clarke LLP

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This Agreement is made on

2018

Between:

- (1) **BDW Trading Limited** (company number: 03018173) of Barratt House, Cartwright Way, Forest Business Park, Bardon Hill, Coalville, Leicestershire LE67 1UF ("**the Developer**");
- (2) **Cane Hill Park (Coulson) Management Company Limited** (company number: 09927001) whose registered address is BDW House, Walnut Tree Close, Guildford, Surrey, GU1 4SW ("**the Residents Management Company**"); and
- (3) **Chamonix Estates Limited** (company number: 05851267) of The Maltings, Hyde Hall Farm, Sandon, Hertfordshire, SG9 0RU ("**the Manager**").

Background: [DN3](#)

- (A) GLA Land and Property Limited is the registered proprietor of the land on which the Development (as hereinafter defined) is being carried out by the Developer under the terms of the Build Lease dated 1 June 2015 registered under title number SGL760903.
- (B) The Developer is developing the Development and erecting thereon the Dwellings and intends to dispose of these Dwellings by way of the Deeds.
- (C) The Deeds contain a right for the Dwelling Owners to use the Managed Land and the Dwelling Owners are to contribute towards the maintenance of the Managed Land.
- (D) Under the terms of the Deeds the Residents Management Company is obliged to maintain the Managed Land.
- (E) The Developer and the Residents Management Company have hereby agreed to appoint the Manager to carry out the management of the Managed Land and to carry out the responsibilities of the Manager as contained in the Deeds and the Management Scheme annexed hereto and hereinafter referred to and the Manager has agreed to accept such appointment on the terms hereinafter appearing.

It is agreed as follows:

1. Definitions and interpretation

- 1.1 In this Agreement, unless the context otherwise requires, the following definitions shall apply:

"Agreement" means this agreement including any schedule or annexure to it and any document supplemental or collateral to it.

"Accounting Period" means the period from the 1 April in every year during the continuance of this Agreement to the 31 March of the following year or such other annual period as the Developer may in its discretion from time to time determine as being that in respect of which the accounts relating to the Development shall be made up such period to be the same period as is provided for in the Deeds.

"Business Days" means a day (other than a Saturday, Sunday or a public holiday in England) when the banks in London are open for business.

"Commencement Date" means the date that the Developer notifies the Manager in writing that it wishes the Manager to commence the Management of the Managed Land PROVIDED THAT the Commencement Date shall be at least 14 days after the giving of the written notice and that the Developer shall be entitled to pass over the management responsibilities in phases to the Manager and the Manager shall be responsible for maintenance from the date of the handing over of the Development or each phase if handed over in phases and the

relevant date for the relevant phase will then be the date that such phase is handed over and if the responsibility is handed over in phases then "Commencement Date" shall be the date that the first phase is handed over.

"Deeds" means the deeds substantially in the form of the transfer annexed hereto in Appendix 1 and the expression "Deed" shall be construed accordingly provided that the Developer shall have the right to amend these documents as required without obtaining any agreement or consent from the Manager.

"Development" means the land being developed by the Developer being the land registered or previously registered under title numbers SGL610743 and SGL760903.

"Dwellings" means the houses constructed or to be constructed on the Development.

"Dwelling Owners" means the owners of the individual Dwellings comprised within the Development and "Dwelling Owner" has a corresponding singular meaning.

"Handover Date" means the date of the transfer of the Residents Management Company to the Dwelling Owners.

"Health and Safety File" means a source of information needed prior to and during future construction work which includes maintenance alterations refurbishments and demolition and to be kept up to date.

"Managed Land" means the land and facilities constructed or to be constructed on the Development which are to be managed by the Manager as more particularly detailed in the Deeds and shown hatched black on the Plan annexed hereto in Appendix 2.

"Management" means the management of the Managed Land as provided for in the Deeds.

"Management Information" means details of agreements entered into by the Manager in connection with the Management and all information including accounts property registers records of tenant and computer records maintained by the Manager on behalf of the Developer or the Residents Management Company.

"Management Scheme" means the Service Charge Budget and management scheme for the Development prepared by the Manager and agreed by the Developer a copy of which is annexed to this agreement.

"Management Charge Trust Account" means a trust account by which all unexpended sums of service charges received from the Dwelling Owners shall be held until expended on the Management.

"Management Year" means a period of 364 days.

"NHBC" means the National House Building Council.

"Occupiers" means the occupier of the individual Dwellings if different from the Dwelling Owners.

"Plan" mean the plan or plans annexed to this Agreement.

"Service Charge" means the monies payable by the Dwelling Owners in accordance with the provision in the Deeds in payment of contributions towards the maintenance of the Managed Land and related costs.

"Service Charge Budget" means the service charge budget annexed hereto in Appendix 3.

"Sinking Fund" means that part of the Service Charge which is a fund to be accumulated for major refurbishment and other items of major capital expenditure.

"Term" means the term starting on the Commencement Date for a fixed term of one year less one day from such date with an option to renew at the end of the this period and if renewed will continue on a Management Year to Management Year basis with the right to termination by either party on giving three month's written notice at any time but subject to clause 8 hereof.

"VAT" means value added tax as provided under the VATA.

"VATA" means Value Added Tax Act 1994 and references to the VATA shall include all statutes, laws, regulations, notices, directions or similar provisions, relating to value added tax and any value added, turnover, sales, purchase or similar tax of the United Kingdom or of any other jurisdiction and references to value added tax or to VAT shall be construed accordingly.

1.2 In this Agreement, unless the context otherwise requires:

- (a) words in the singular include the plural and vice versa and words in one gender include any other gender;
- (b) a reference to a statute or statutory provision includes any subordinate legislation made under it and any statute or statutory provision which modifies, consolidates, re-enacts or supersedes it whether such statute or statutory provision comes into force before or after the date of this Agreement;
- (c) a reference to:
 - (i) any party to this Agreement includes personal representatives, successors in title and permitted assigns;
 - (ii) a "person" includes any individual, firm, body corporate, association or partnership, government or state (whether or not having a separate legal personality); and
 - (iii) clauses and schedules are to clauses of and schedules to this Agreement and references to paragraphs are references to paragraphs of the schedule in which they appear;
- (d) the table of contents and headings are for convenience only and shall not affect the interpretation of this Agreement;
- (e) general words shall not be given a restrictive meaning where they follow one or more specific terms indicating a particular category of act, matter or thing or where they are followed by examples. The words "including" and "in particular" (or similar) shall not limit the generality of any preceding words;
- (f) where any liability or obligation is undertaken by 2 or more persons the liability or obligation of each of them shall be joint and several;
- (g) the release or compromise in whole or in part of the liability of or grant of any time or indulgence to any one or more of joint and several obligors shall not affect the liability of the other or others; and
- (h) this Agreement may only be varied in writing signed by the parties.

2. **Appointment of manager**

2.1 The Developer and the Residents Management Company hereby appoint the Manager to be agent for the Management during the Term and the Manager accepts such appointment.

2.2 The Developer and the Residents Management Company authorises the Manager:

- (a) to act in the Developer's name and on the Developer's behalf until the Handover Date and thereafter to act in the name and on behalf of the Residents Management Company at the Residents Management Company's expense;
 - (b) to perform any act and do anything referred to in clauses 4 and 5; and
 - (c) generally to do execute and perform any other act or thing not specified in clauses 4 and 5 which the Developer or the Residents Management Company could do itself in respect of the Management,
- 2.3 The Manager shall co-operate with any other professional advisers instructed by the Developer or the Residents Management Company in relation to the Development whose names have been notified to the Manager by the Developer or the Residents Management Company and supply to them promptly at the Developer's or, following the Handover Date, the Resident Management Company's expense all such Management Information as they shall reasonably request.
- 3. **Developer's obligations**

The Developer hereby covenants with the Manager as from the Commencement Date as follows:

 - 3.1 To pay the proportion of the Service Charge applicable to the Development attributable to any unsold Dwellings from the Commencement Date until the legal completion of the last unsold Dwellings but not including any contribution to the Sinking Fund or reserve fund and excluding any management fees and only insofar as such costs have actually been incurred by the Manager.
 - 3.2 To pay to the Manager any monies received by it from any Dwelling Owners after the Commencement Date which are properly due to the Manager under the terms of the Deeds.
 - 3.3 To dispose of the Dwellings using only the Deeds as are applicable in connection therewith but subject to such reasonable amendments and/or modifications as the Developer may allow or require and which do not materially affect the management covenants of the Deeds.
 - 3.4 Upon legal completion of the sale and purchase of each Dwelling by the Developer after the Commencement Date to collect the proportion Service Charge then due from the Dwelling Owners named in the Deeds up to the next half yearly payment date as set out in the Deeds and pay such Service Charge to the Manager within 30 Business Days of receipt by the Developer or its solicitors.
 - 3.5 To rectify any material defects in the construction of the Managed Land (but excluding the Dwellings or any part thereof) which may be notified by the Manager to the Developer within two (2) months following the completion of the sale and purchase of the last Dwelling to be sold by the Developer such rectification to be carried out as soon as shall be reasonably practicable after the date of such notification and to a good and professional standard which complied with the requirements of the NHBC.
 - 3.6 As soon as reasonably possible following the completion of the sale and purchase of each Dwelling to:
 - (a) notify the Manager of each such sale; and
 - (b) if any Dwelling Owners pay any Service Charge to the Developer following the Commencement Date to pay over all such monies to the Manager as soon as shall be reasonably practicable,
 - 3.7 To make available the Health and Safety file to the Manager as soon as reasonably practicable after the completion of the Development.

- 3.8 The Developer and the Manager agree that if there are to be phased handovers of the Development that clause 3.1 to 3.7 of this Agreement can apply to Dwellings on a phase by phase basis.

4. Manager's obligations to the Developer and the Resident's Management Company and the Dwelling Owners

The Manager hereby covenants with the Developer and the Residents Management Company at all times during the continuance of this Agreement to perform and comply with the following obligations:

- 4.1 To observe and perform the obligations on the part of the Developer and the Residents Management Company contained in the Deeds so far as the same relate to the Management of the Managed Land and to indemnify the Developer against any actions, losses, costs, claims or demands arising from any breach of the Developer's obligations contained in the Deeds due to any act or omission or default on the part of the Manager and to indemnify the Residents Management Company against any actions, losses, costs, claims or demands arising from any breach of the Residents Management Company's obligations contained in the Deeds due to any act or omission or default on the part of the Manager.
- 4.2 Diligently to enforce from time to time the covenants on the part of the Dwelling Owners contained in the Deeds.
- 4.3 Upon request to sign each Deed for the sale of the Dwellings and immediately return the same to the Developer's solicitors or howsoever else directed.
- 4.4 To carry out the Management diligently in accordance with the reasonable requirements of the Developer and the Residents Management Company and the Management Scheme and to protect and promote the interests of the Developer and in an orderly and business-like manner adopting the principles of good estate management.
- 4.5 In all matters to act loyally and faithfully towards the Developer and the Residents Management Company and to confer regularly with the Developer and the Residents Management Company regarding the management policy of the Development.
- 4.6 To pay all taxes rents (if any) rates electricity gas and other charges insurance premiums expenses and outgoing payable by the Developer and the Residents Management Company in respect of the Development and to make any payments necessary in the Management of the Development.
- 4.7 To employ or engage pay and supervise all persons necessary in the Manager's opinion to be employed in the Management such persons to be the Manager's and not the Developer's or the Residents Management Company's employees and to pay all National Insurance taxes pension fund payments compensation redundancy and other payments and taxes or assessments required in connection with employment or engagement of such persons and to discharge or remove any such persons and appoint another or others and to make enquiries into the employment history and background of all prospective employees and to satisfy itself that all such persons employed are honest and trustworthy and if requested by the Developer, to obtain legal advice for the Developer (at the Developer's reasonable cost and as agent only for it) relating to employees of the Developer engaged in respect of the Development.
- 4.8 Prior to the engagement of any person firm or company who is to be employed to carry out any construction work (including cleaning maintenance alterations refurbishments replacements or demolition works on the Development) to ensure their competence and that they are adequately resourced to carry out the work in question and that they will provide as soon as reasonably practicable after completion of such work all such information as is necessary to keep the Health and Safety File up to date and available to the Developer or the Residents Management Company.

4.9 To notify the Developer and the Residents Management Company of any breaches by the Dwelling Owners of the provisions of the Deeds committed by any of the Dwelling Owners and to take such steps in relation thereto as the Developer and/or and the Residents Management Company shall require.

4.10 **Management Information**

- (a) To maintain up to date Management Information accurately reflecting all transactions in the Management and to make the Management Information available to the Developer and the Residents Management Company and to permit the Developer or the Residents Management Company and the Developer's or the Residents Management Company accountant and auditors and other representatives at all reasonable times to inspect and take copies of all things material to the Management and for this purpose to enter any premises used in connection with the Management;
- (b) To keep the accounts in accordance with good accounting practice and to comply with accounting standard TECH 03/11 published by the Institute of Chartered Accountants in England and Wales from time to time in force;
- (c) To have the accounts audited in accordance with the Deeds;
- (d) To submit copies of the accounts to the Developer and the Residents Management Company within 3 months of the end of each Accounting Period;
- (e) To keep the accounts for not less than 6 years;
- (f) To render statements to the Developer or the Residents Management Company of all sums collected since the Commencement Date up to the next quarter day and thereafter on each quarter day in each year and if required to produce to the Developer or the Residents Management Company receipts or vouchers in respect of any payment; and
- (g) To maintain a separate bank account in respect of the Management and also a separate bank account for the Sinking Fund, which shall be held in trust for the Dwelling Owners.

4.11 To comply with the provisions of all statutory and local government legislation and any licences permissions and consents required under such legislation in the Management and any codes of management practice required or provided for under any such legislation including (without prejudice to the generality of the foregoing) to comply with all legislation relating to Safety Health and Environment and Fire Precautions.

4.12 Not to describe itself as agent or representative of the Developer or and the Residents Management Company except as expressly authorised by this Agreement.

4.13 Not to pledge the credit of the Developer or the Residents Management Company in any way.

4.14 **Planning**

- (a) To advise on all applications from Dwelling Owners for consent to the carrying out of any alterations or works in any Dwelling for assignment or subletting or to change the use or otherwise vary the terms of any Deeds; and
- (b) To deal directly with all Dwelling Owners and prospective purchaser of any Dwelling and to consult with any residents or tenants association.

4.15 To enter into any necessary agreements with any cleaning security services engineers contractors or other specialist firms for the provision of services and facilities to the Development including the maintenance and renewal of the Managed Land and any facilities therein.

- 4.16 To prepare or amend the Management Scheme as required and produce the same to the Developer and the Residents Management Company for approval on or before the Commencement Date.
- 4.17 To prepare or have prepared specifications and plans and to supervise any work in connection with repairs renewals improvements alterations or other building operations in or to the Development.
- 4.18 To act at all times in accordance with the principles and procedures for the time being recommended by the Royal Institution of Chartered Surveyors in relation to the Management of the State and with any Code of Management Practice approved by the relevant Minister or Secretary of State under the Leasehold Reform Housing and Urban Development Act 1993 or other current legislation.
- 4.19 ***Not to assign or delegate***
- (a) Not to assign charge or otherwise deal with this Agreement without the prior written consent of the Developer prior to the Handover Date or the consent of the Residents Management Company thereafter; and
 - (b) Not to delegate any duties or obligations arising under this Agreement otherwise than may be expressly permitted under its terms or with the Developer and the Resident Management Company's written consent,
- 4.20 To comply with the terms of any default notice specifying a breach of the provisions of this Agreement requiring the breach to be remedied so far as it may be but nothing in this clause is intended to require the Developer or the Residents Management Company to serve notice of any breach before taking action in respect of it.
- 4.21 Without prejudice to the generality of the foregoing to comply with all reasonable and proper instructions and requirements of the Developer or the Residents Management Company in respect of any addition to or variation or alteration of the services provided at the Development from time to time hereafter.
- 4.22 To prepare job descriptions and person specifications for the recruitment and employment of any necessary caretakers, site managers, concierge or other form or maintenance staff on behalf of the Developer or the Residents Management Company, subject to the reasonable costs of such recruitment being met from the Service Charge.
- 4.23 Subject to the reasonable availability of the Manager's staff, to attend Developer's and/or and the Residents Management Company's and/or Dwelling Owner's meetings during normal weekday working hours or after normal weekday working hours (excluding Friday) up to 9.00pm, as reasonably required by the Developer and/or Dwelling Owners to a maximum of 3 meetings per calendar year. Additional meetings will be subject to an hourly charge based on the current published Manager's tariff.
- 4.24 During the twelve month period following the Commencement Date, the Manager shall attend up to an additional 4 meetings in excess of those set out in clause 4.23 to include:
- (a) a Dwelling Owners' welcome meeting;
 - (b) undertake new contractor vetting and appointment;
 - (c) arrange the initial training of site staff;
 - (d) deal with higher levels of correspondence and telephone calls than are generally contemplated by this Agreement;
 - (e) set up a database of Owner information and all necessary files for the storage of Development information;

- (f) create an out of hours pack to detail what action should be taken in the event of the breakdown of essential Development services; and
 - (g) further offer such reasonable additional assistance as the Manager shall at its absolute discretion decide to Dwelling Owners during the Development's initial period of occupation,
- 4.25 To provide emergency assistance to the Developer and/or and the Residents Management Company in re-establishing essential services at the Development outside the Manager's normal week day working hours as published from time to time subject to the Developer or, following the Handover Date, the Residents Management Company meeting the Manager's reasonable costs of any such assistance together with the Developer or the Residents Management Company having emergency monitoring arrangements in place. In providing such assistance the Manager shall be entitled at its discretion to decide what is deemed to be an 'emergency' and 'essential services' for the purpose of this clause.
 - 4.26 To provide replies to enquiries and letters of consent as required by the Deeds without undue delay.
 - 4.27 To undertake consultation for works or service contracts where formal consultation is necessary under the Landlord and Tenant Act 1985, Section 20 as amended by the Commonhold and Leasehold Reform Act 2002.
 - 4.28 To deal with all routine matters relating to the Landlord and Tenant Acts 1985, and 1987, the Housing Act of 1996 and the Commonhold and Leasehold Reform Act 2002 and any subsequent Act, re-enactment, measure or regulation etc.
 - 4.29 To tender, negotiate and sign contracts for agreed service contracts to include, where appropriate and without limitation, grounds keeping, general cleaning and the supply of consumables, window cleaning, all mechanical and electrical contracts (including but not limited to door entry, TV aerial system, door entry gates, lifts, CCTV systems, extraction systems, fire systems, dry risers, fire fighting equipment, emergency lighting as applicable), utility services and to manage the agreed service contracts to include those referred to in this clause.
 - 4.30 To tender, negotiate and place contracts for repairs to the Development where costs do not exceed £1,000 (plus VAT), provided that such repairs do not require specialist technical surveying or engineering advice or specific attendance by the Manager on site and where such cost exceed £1,000 (plus VAT) these should be dealt with in accordance with clause 4.29 above.
 - 4.31 To receive, validate, authorise and pay invoices received and to be incurred by the Developer or the Residents Management Company in respect of the Development insofar as such invoices relate to the services to be performed by the Manager under this Agreement.
 - 4.32 To provide general advice to the Developer, its directors and appointed agents and/or and the Residents Management Company and its officers concerning the general management of the Development.
 - 4.33 To inspect (without use of equipment) such of the common parts of the Development as can be inspected safely and without undue difficulty to ascertain for the purposes of day-to-day management only its general condition, such inspections to be no less frequent than 8 in any year.
 - 4.34 To act as agent for the Developer and the Residents Management Company in the employment and management of any site staff provided that any such management does not involve the employment of such staff by the Manager.
 - 4.35 To provide general advice on current Health & Safety legislation in so far as it relates to the management of the Development and arrange, where required and at the reasonable cost of

the Developer or the Residents Management Company following the Handover Date external advisers to undertake site audits as required by employment law or in the practice of good Development management such costs to be met from the Service Charge and to maintain the Health & Safety file provided to the Manager by the Developer.

5. Manager's obligations relating to the Development

The Manager hereby covenants with the Developer and the Residents Management Company at all times during the continuance of this Agreement to provide the following services and perform and comply with the following obligations for the benefit of the Dwelling Owners:

- 5.1 To maintain and keep the Managed Land in good repair renewing and replacing any equipment as necessary and to keep the amenity and landscaped areas in a neat and tidy condition in accordance with the Deeds and (without prejudice to the generality of the foregoing):
 - (a) To clean regularly the Managed Land including the cleaning of external paths and drives and to clear regularly fallen leaves and to treat surface ice if required; and
 - (b) To carry out the maintenance provisions for the buildings in accordance with the provisions in the Deeds (if any and as applicable),
- 5.2 To prepare a programme for the regular maintenance of the Managed Land and to advise the Dwelling Owners of such programme and the budgeted cost of the same and to consult with the Dwelling Owners in relation thereto.
- 5.3 To arrange public liability insurance cover in respect of the Development in accordance with the provisions of the Deeds subject to the Developer notifying the Manager of the appropriate insurable amounts for such insurances and providing any such insurances are procured by the Developer's nominated insurance provider.
- 5.4 To provide a copy of the policy and the proof of payment of premiums to the Developer or its solicitors or the Residents Management Company within 7 days if requested to do so.
- 5.5 To permit any Dwelling Owner who wishes to do so to inspect the insurance policy or the proof of payment of premiums free of charge PROVIDED THAT a reasonable charge may be made for the supply of copies of the same.
- 5.6 If and to the extent required by the Deeds to arrange an insurance valuation of the Development or any of the Dwellings thereon.
- 5.7 To submit and administer claims on behalf of the Developer or the Residents Management Company under any insurances arranged by the Manager pursuant to paragraph 5.3 above, provided that no one claim shall exceed £5,000 in aggregate.
- 5.8 To maintain a database of all Dwelling Owners and to take reasonable steps to ensure that data is regularly updated and accurate.

6. Service charges

The Manager hereby covenants with the Developer and the Residents Management Company at all times during the continuance of this Agreement to perform and comply with the following obligations so far as the same relate to the Service Charge:

- 6.1 To collect the Service Charge from the Dwelling Owners in accordance with the terms of the Deeds and such Service Charge shall be applied in the maintenance of the Development in accordance with the provisions of the Deeds and, where necessary, instruct, on behalf of and at the cost of the Developer or the Residents Management Company, solicitors or other suitable agents to take proceedings for the recovery of any arrears of any such amounts, subject to payment to the Manager of any fees, costs, expenses, or charges due to the

Developer or the Residents Management Company under the Deeds and to maintain and administer adequate credit control procedures and advise the Developer of the need for any legal action for non-payment of Service Charges, subject to the provisions set out in this clause.

- 6.2 To maintain a separate client account which is to be held on trust for the Dwelling Owners and to pay into such account all advance payments collected from the Dwelling Owners in respect of the Service Charge PROVIDED THAT the Manager shall be entitled to retain and deduct from the advance payments as aforesaid such sums as shall represent the proper and reasonable expenses and outgoings incurred by the Manager in performing the obligations of the Developer or the Residents Management Company pursuant to the Deeds.
- 6.3 Each year to draw up a proposed budget with estimates of all charges to be levied on Dwelling Owners by the Manager and the Developer or the Residents Management Company and to submit them to the Developer and the Residents Management Company for approval and, following agreement, to circulate such Service Charge budgets to all Dwelling Owners entitled to them under the Deeds PROVIDED THAT such budget contains a realistic estimate based on evidence then reasonably available and the Manager confirms that it will use all reasonable endeavours to ensure that the budget is not exceeded and to provide general advice concerning the preparation of annual budgets and sinking funds.
- 6.4 Within 3 months of the expiry of an Accounting Period to procure the final accounts be audited by a chartered accountant for such Accounting Period in accordance with the terms of the Deeds and to forthwith produce the same to the Developer and the Residents Management Company for approval and upon the approval of such accounts by the Developer (which shall not be unreasonably withheld or delayed) to furnish final copies of such accounts audited as aforesaid to the Dwelling Owners no later than 6 months after the end of each Accounting Period.
- 6.5 To collect the Sinking Fund (if any) which shall forthwith be paid into a separate deposit account and which shall be held in trust for the Dwelling Owners in an account requiring an authorised signatory of the Developer and the Residents Management Company to sanction withdrawals there from and to utilise the Sinking Fund in accordance with the provisions of the Deeds.
- 6.6 In the event of this Agreement being terminated as herein provided then the deposit account referred to in the preceding sub-clause of this Agreement and all other monies held on trust as referred to in clause 6.2 shall forthwith be transferred into the name of the Developer or, if after the Handover Date, the Resident Management Company. The Manager shall forthwith sign and execute all necessary documents to effect such transfer and hereby appoints the Developer its attorney with power as its act and deed or otherwise to execute and sign all such documents and things required to be executed and signed under this sub-clause with power to appoint a substitute or substitutes for such purpose PROVIDED THAT the Developer shall itself hold such account in trust for the Dwelling Owners.
- 6.7 The Manager will reimburse the Developer from the management company's funds within twenty-eight days of receiving written evidence thereof of any reasonable and proper expenditure incurred by the Developer in carrying out any of the management functions as specified in the Deeds and the Management Scheme prior to or following the Commencement Date such costs to include a reasonable management charge.

7. Consultation with dwelling owners

- 7.1 The Manager shall recognise any residents association which may be incorporated which comprises more than 51% of the Dwelling Owners and will encourage such an association to accept into membership all the Dwelling Owners.
- 7.2 The Manager undertakes to consult with the Dwelling Owners and Occupiers regarding all major management proposals likely to have a significant effect in quality of service or level of service charges.

8. Termination

This Agreement shall terminate:

- 8.1 If the Manager shall be in breach of any of its obligations contained in this Agreement and shall fail to remedy such breach or breaches (whether or not capable of being remedied) to the Developer's or, if after the Handover Date, the Resident Management Company's entire satisfaction within a reasonable period following written notice from the Developer or, if after the Handover Date, the Resident Management Company of such breach or breaches (it being agreed that such period shall in any event not exceed 2 months but may be shorter if it is reasonable in the circumstances).
- 8.2 If the Manager (being a company) goes into liquidation either compulsory or voluntary (save for the purposes of reconstruction or amalgamation) or if a receiver is appointed in respect of the whole or any part of its assets or if the Manager (being an individual) is declared bankrupt (or in the case of the Manager being a partnership an individual partner becomes bankrupt or the dissolution of the partnership) or if the Manager makes an assignment for the benefit of or composition with its creditors generally or threatens to do any of these things or any judgment is made against the Manager or any similar occurrence under any jurisdiction affecting the Manager.
- 8.3 If the Manager engages in any conduct prejudicial to the Development or the Management generally or the reputation of the Developer.
- 8.4 If any material change occurs in the management or control of the Management and in particular any change of directors of the Manager dealing with the Management save where agreed by the Developer or, if after the Handover Date, the Resident Management Company in writing prior to any exchange.
- 8.5 If the Developer (being a company) goes into liquidation either compulsory or voluntary (save for the purposes of reconstruction or amalgamation) or if a receiver is appointed in respect of the whole or any part of its assets or if the Developer (being an individual) is declared bankrupt (or in the case of the Developer being a partnership an individual partner becomes bankrupt or the dissolution of the partnership) or if the Developer makes an assignment for the benefit of or composition with its creditors generally or threatens to do any of these things or any judgment is made against the Developer or any similar occurrence under any jurisdiction affecting the Developer.

9. Termination consequences

- 9.1 On the expiration or other termination of this Agreement the Manager undertakes for with to:
 - (a) Return to the Developer or the Residents Management Company all originals and copies of documents comprised in the Management Information; and
 - (b) Cease carrying on the Management,
- 9.2 The Manager shall not later than 28 days after the termination of this Agreement furnish to the Developer and the Residents Management Company a complete and accurate account of all transactions subsequent to those shown in accounts last submitted with estimates of turnover of the Management to such expiration or termination date and not later than 42 days after such date pay to the Developer or the Residents Management Company any sums due under this Agreement.
- 9.3 The expiry or termination of this Agreement shall be without prejudice to any rights which have already accrued to either of the parties under this Agreement.

10. **Handover to Residents Management Company**

If the freehold interest in the Managed Land (or any part thereof) is transferred to the Residents Management Company or any other party the Developer shall advise the Manager in writing and from the date of the transfer of the Managed Land the Developer's liability under this agreement shall absolutely cease and determine on the date of a transfer of the Managed Land and the benefit of any covenants granted to the Developer or the obligations of the Developer contained in this Agreement shall pass to the Residents Management Company.

11. **Entire agreement**

This Agreement constitutes the entire agreement between the parties and shall only be capable of variation by the parties in writing.

12. **Disputes**

If any dispute or difference shall arise between the parties in relation to the terms and conditions of this Agreement or in relation to the due discharge of the obligations of the parties hereunder or to their respective rights duties or obligations or as to any matter or thing in any way arising out of or connected with the subject matter of this Agreement such dispute shall be referred to an independent arbitrator to be agreed upon by the parties or in the absence of agreement to be appointed on the application of either party by the President or Vice President for the time being of the Royal Institution of Chartered Surveyors or any successor institute and such reference shall be conducted in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force.

13. **Notices**

Any notice required to be given under the terms and provisions of this Agreement shall (save as otherwise herein provided) be given in writing and left at or sent by registered or recorded delivery post to the appropriate party at its registered office from time to time and shall be deemed to have been served 48 hours after posting such notice and in proving service it should be sufficient to show that the envelope containing the notice was duly addressed stamped and posted PROVIDED THAT a copy of any notice to be served on the Developer shall also be sent to its relevant divisional office. Notice cannot be served by e-mail.

14. **VAT**

14.1 All consideration under this Agreement shall be exclusive of VAT (if any). Where one party (the "**supplier**") makes or is deemed to make a supply to another party (the "**recipient**") for the purposes of VAT:

(a) the recipient shall pay VAT in addition to the consideration (together with any penalty or interest chargeable on the supplier to the extent attributable to any act or omission by the recipient); and

(b) the supplier shall issue to the recipient a VAT invoice.

14.2 If any VAT is found to have been overpaid the supplier shall repay such VAT and issue to the recipient a VAT credit note (where by law it is required to do so).

14.3 All amounts shall be paid or repaid within 5 Business Days following the date of the demand. A demand shall be in writing and may be made at any time on or after the time of the supply but not later than the expiry of the time limit referred to in section 77(1)(a) VATA 1994 (Assessment: time limits and supplementary assessments).

15. **No partnership**

The parties are not partners or joint venturers nor is the Manager able to act as agent of the Developer save as authorised by this Agreement.

16. **Exclusion of third party rights**

Unless expressly provided in this Agreement no express term of this Agreement or any term implied under it is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

17. **Governing law and jurisdiction**

17.1 This Agreement and any dispute, claim or obligation (whether contractual or non-contractual) arising out of or in connection with it, its subject matter or formation shall be governed by English law.

17.2 The parties irrevocably agree that the English courts shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with this Agreement, its subject matter or formation.

This Agreement is made on the date appearing at the head of page 1.

Executed as a Deed

by

..... (print name) (signature)

in the presence of: -

Witness Signature:.....

Name:

Address:

Occupation:.....

and

..... (print name) (signature)

in the presence of: -

Witness Signature:.....

Name:

Address:

Occupation:.....

Attorneys for **BDW TRADING LIMITED**

in exercise of the powers conferred by a Power of Attorney

Executed as a Deed

By Cane Hill Park (Coulsdon) Management Company Limited

.....

Director

.....

Director/Company Secretary

SIGNED as a Deed by **Chamonix Estates Limited** acting by

a Director and the Secretary/two Directors

Director



Secretary/Director



V M Hawkrige
on behalf of
Fairfield Company Secretaries Ltd