

London Leasehold Valuation Tribunal File Ref No.

LON/00ML/LAM/2010/0002

Leasehold Valuation Tribunal: Full reasons for decision.

Landlord and Tenant Act 1987 section 24

Address of Premises

The Committee members were

| | |
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| Argus Lofts, Robert Street, Brighton BN1 4AY | Mr Adrian Jack Mr Pat Casey MRICS |
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The landlord: Arkgold Investments Ltd

The applicant-tenants: Various

Background and procedural

1. By an application dated 21st January 2010 various tenants sought the appointment of the manager of the block.
2. The block consists of a mixed commercial and residential premises. When the development was originally built in about 2002 a detailed management scheme was put in place with a management company which held a head-lease from the freeholder.
3. The management company fell into arrears with the rent payable to the freeholder and in due course the freeholder forfeited the lease and the management company was dissolved. This meant that there were no effective systems in place for the management of the block. In consequence no system for repairs was in place.
4. In these circumstances the majority of the residential tenants and a number of the commercial tenants applied for the appointment of a manager.

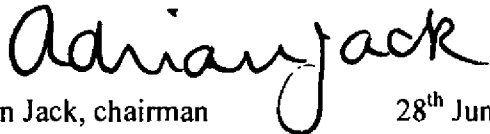
Inspection, evidence and decision

5. The Tribunal inspected the property on the morning of 23rd June 2010, where we were shown the various wants of repair and other deficiencies resulting from the absence of any manager.

6. The Tribunal subsequently held a hearing. The landlord was represented by Michael Buckpitt of counsel; the applicants by Camilla Lamont also of counsel.
7. The parties had, subject to the Tribunal's approval, agreed a detailed management order which they invited the Tribunal to make. The background to the order was that the landlord and the tenants had agreed that the sensible way forward with the management of block was to revive the management company and set aside the forfeiture order.
8. The Tribunal heard evidence from Mr James Groves MRICS, the proposed manager. He had extensive property experience, both commercial and residential, and managed already a number of properties, including mixed developments. He had not previously been appointed as a manager by the Tribunal, but was otherwise in our judgment a very suitable person for appointment.
9. In these circumstances the Tribunal had no hesitation in making the order attached.

DECISION

The Tribunal accordingly makes the attached order.



Adrian Jack, chairman

28th June 2010

**ORDER FOR APPOINTMENT OF AN INTERIM MANAGER IN RELATION TO
ARGUS LOFTS, ROBERT STREET, BRIGHTON, BN1 4AY**

UNDER SECTION 24 OF THE LANDLORD AND TENANT ACT 1987 ("the Act")

DEFINITIONS

In the Order below (and the Recital thereto):

- (a) The "Premises" means the land and the building known as Argus Lofts, Robert Street, Brighton BN1 4AY the freehold of which is registered at the Land Registry under title number ESX219322
- (b) The "Leases" means all those leases of the commercial and residential parts of the Premises set out in the Second Schedule hereto
- (c) The "Apartment Leases" means those leases of apartments set out in Part I of the Second Schedule hereto;
- (d) The "Commercial Leases" means those leases of non residential units in the Premises (not including the Electricity Transformer Substation Chamber Leases) set out in Part II of the Second Schedule hereto;
- (e) "The Management Lease" means the overriding lease of the residential parts of the building at the Premises dated 31 January 2005 and made between City Lofts (Argus Building) Ltd and City Lofts Management (Argus Building) Ltd which has been determined by forfeiture;
- (f) "The Residential Part" means that part of the Premises which was demised pursuant to the Management Lease
- (g) "The Commercial Part" means all those parts of the Premises which were not demised pursuant to the Management Lease
- (h) The "Apartment Lessees" means the lessees of the Apartment Leases or their successors in title and the "Commercial Lessees" means the lessees of the Commercial Leases or their successors in title.
- (i) The "Lessees" means the Apartment Lessees and the Commercial Lessees

- (j) The "Applicants" means the lessees who are the applicants in this application and who are listed in Schedule A annexed to this Order and the "Landlord" means the Respondent to this applicant namely Arkgold Investments Ltd or its successors in title.
- (kl) The "Management Company" means City Lofts Management (Argus Building) Ltd, which company has been dissolved.
- (l) The "Electricity Transformer Substation Chamber Leases" means (i) a lease dated 10 September 1975 and made between The Southern Publishing Company Ltd as lessor and The South Eastern Electricity Board as lessee; and (ii) a lease dated 20 January 2004 and made between City Lofts (Argus Building) Ltd as lessor and EDF Energy Networks (SPN) Plc as lessee

RECITAL

- (I) Whereas the parties to this application have agreed as an interim measure to seek, so far as possible, to have the Management Company restored to the Register of Companies and for the Management Lease to thereafter be restored into the name and possession of the Management Company as though it had never been forfeit, whether by the grant of relief from forfeiture on terms, or by the setting aside of the order of District Judge Gamba dated 10 February 2009 ("the Order") made in proceedings in the Brighton County Court under claim number 8BN04365 ("the County Court Proceedings")
- (II) And whereas to that end, the Applicants who are Apartment Lessees have agreed to take all reasonable steps to restore the Management Company to the Register of Companies and thereafter to take all reasonable steps to procure that the Management Company do apply in the County Court Proceedings for an order granting relief from forfeiture alternatively for an order setting aside the Order on terms ("the Proposed Consent Order"), and the Landlord has agreed to cooperate with the Applicants who are Apartment Lessees with the aim of achieving these objectives on the basis that, as a

condition of relief from forfeiture being given, alternatively the setting aside of the Order, it will be entitled to be paid the sums specified in Schedule 3 hereof ("the Funds")

- (III) And whereas to that end the Landlord has agreed to take all reasonable steps to satisfy the court in the County Court Proceedings that it has not taken any steps to enforce the Order or otherwise obtain possession of the Residential Part pursuant to the Order
- (IV) And whereas a copy of the Proposed Consent Order is attached in Schedule 4 hereof
- (V) And whereas the parties have agreed to the making of an interim management order in the terms set out herein appointing Mr. James Groves as the Interim Manager ("the Manager") to facilitate the effective management of the Premises until such time if any as the Management Lease can be restored in the name of the Management Company as provided for herein
- (VI) And whereas the Landlord confirms that the Premises, including the Residential Part, have continued to be fully insured by it as though the Management Lease had not been forfeit since the date upon which the Management Lease was forfeit. And whereas the Landlord agrees with the Applicants to make and duly progress such insurance claims as any of the Lessees reasonably require to be made and pursued in respect of any Flat or the Residential Part during such period and to lay out all such proceeds (if any) of any such insurance claims as appropriate in the same manner as those monies would have been laid out had the Management Lease not been forfeit
- (VII) And whereas during the period of the interim management order the Landlord intends to continue to insure the Premises in its own name and, the Applicants have agreed to that request subject to the Manager having the function of ensuring that the Residential Part is fully insured as though the Management Lease had not been forfeit and paying the Landlord such proportion of the costs of that insurance as relates to the Residential Part

- (VIII) And whereas the Landlord agrees with the Applicants who are Apartment Lessees and Mr. James Groves as the Manager that it will during the continuance of this interim management order insure the Premises to the same extent as it would have been liable to do had the Management Lease continued in existence and will comply the terms of clauses 4.2 and 4.3 of the Management Lease relating to insurance as though they were repeated herein and made directly between the Landlord on the one part and the Manager and the Applicants who are Apartment Lessees on the other and in particular will use all reasonable endeavours to ensure that the interests in respect of the Residential Part are noted on such policy and will, on request, provide details of such insurance including a copy of any such insurance policy
- (IX) And whereas in consideration for such agreement the Applicants who are Apartment Lessees agree that during the continuance of this interim management order the Landlord shall be entitled to recover through the Manager such proportion of the costs of insurance as relate to the Residential Part as the Landlord would have been able to recover from the Management Company under the terms of clause 3.2.1 of the Management Lease had it continued in existence save that the Manager shall only be responsible for paying over such sums at such time and to such extent as he has recovered such proportion of the costs as relate to insurance of the Residential Part pursuant to this Order and by way of service charge from the Apartment Lessees such cost to be treated as part of the "*Expenses on Apartment Services*" under the terms of the Apartment Leases
- (X) And whereas on the Management Lease being restored in the name of the Management Company as though it had never been forfeit, the Applicants who are Apartment Lessees intend to procure that the Manager be appointed in his own right as managing agent on behalf of the Management Company and the Landlord also intends to appoint the Manager in his own right to act on its behalf in relation to the management of the Premises

- (XI) And whereas it is agreed that if the Management Lease can be restored in the name of the Management Company (once restored), as if it had never been forfeit, and the Manager has been appointed as envisaged above this application will become otiose and should thereafter be dismissed
- (XII) And whereas it is agreed that if this application is restored for hearing under the terms of this Order the parties' rights and positions in respect of that restored application are reserved and protected.
- (XIII) And whereas the parties have agreed to an order being made by the Tribunal in the terms set out herein

UPON THE Leasehold Valuation Tribunal ("the Tribunal") dispensing with service of a notice under section 22 of the Landlord and Tenant Act 1987 on the Management Company, that company having been dissolved

BY CONSENT IT IS ORDERED THAT:

1. Pending compliance with the conditions set out in paragraph 2 hereof, Mr. JAMES GROVES BSc MRICS of Clifford Dann, Albion House, Albion Street, Lewes, East Sussex, BN7 2NF is hereby appointed under section 24 of the Act with effect from midnight 23 June 2010 on an interim basis as the Manager of the Premises..

2. The aforesaid conditions are as follows:
 - 2.1 The Applicants who are Apartment Lessees, or any of them, applying before the end of the period of 2 months commencing with the date of this order to restore the Management Company to the Register of Companies, and thereafter taking all reasonable steps to ensure the application is granted provided that the Landlord, in its capacity as a creditor of the Management Company, if reasonably required (and subject to payment of its reasonable legal costs in connection with the same to be assessed on a standard basis if

not agreed) joins in such application and does all things reasonably necessary to procure the said restoration of the Management Company; and

2.2 Subject to the Management Company being so restored, the Applicants who are Apartment Lessees' solicitors confirming in writing to the Landlord's solicitors no later than Monday 24 January 2011 that they hold the Funds on behalf of the Management Company and undertaking to pay the Funds over to the Landlord or its solicitors as soon as practicable after the making of the Proposed Consent Order referred to below

2.3 Subject to the Management Company being so restored the Applicants who are Apartment Lessees instructing and taking all necessary steps within a reasonable time thereafter but not until the Funds are held by the Applicants' solicitors for the Management Company to apply for and obtain an order in the County Court Proceedings in the terms of the Proposed Consent Order provided that the Landlord shall join in such application and do all things necessary to ensure the Proposed Consent Order is made final by order of the Brighton county court (subject to payment of its reasonable legal costs in connection with the same to be assessed on a standard basis if not agreed)

2.4 The Applicants' solicitors paying to the Landlord or its solicitors the Funds set out in Schedule 3 hereof on behalf of the Management Company as soon as practicable after the making of the Proposed Consent Order so as to comply with the terms upon which relief from forfeiture is granted, alternatively upon which it is agreed the Order will be set aside

3. The aforesaid interim management order made at paragraph 1 hereof will continue until the earlier of:

3.1 The making of the Proposed Consent Order in the County Court Proceedings or the making of such other agreed form of order that will have the effect of restoring the Management Lease in the name of the Management Company

as though it had not been forfeit ("the Proposed Consent Order"), the payment of the Funds to the Landlord necessary to comply with the terms upon which such relief is granted and the parties jointly notifying Mr. James Groves in writing of his appointment as Manager in his own right and his accepting such appointment; or

3.2 The further order of the Tribunal.

4. In the event that the interim management order shall cease to have effect under paragraph 3.1 hereof, the application shall be dismissed with no order for costs without the need for further order of the Tribunal and the parties shall notify the Tribunal that the events set out in paragraph 3.1 have occurred as soon as practicable thereafter.

5. Any party shall have liberty to restore the application for full hearing before the Tribunal upon giving notice to the other parties or their solicitors but only:

5.1 If any of the conditions set out in paragraph 2 above are not complied with by the Applicants who are Apartment Lessees;

5.2 If the Landlord unreasonably fails to co-operate with the Applicants who are Apartment Lessees in the manner set out in paragraph 2 hereof;

5.3 If the application to restore the Management Company to the Register of Companies is unsuccessful for any reason;

5.4 If the application to the County Court Proceedings for an order in the terms of the Proposed Consent Order is unsuccessful for any reason; or

5.5 In any event at any time after 24th June 2011 in the event that this Order remains in force.

6. If the application is restored under paragraph 5 hereof, the party restoring the application shall apply to the Tribunal for directions necessary to bring the matter to a full hearing by letter copying in the other parties' solicitors.

7. During the period of appointment (and subject to the limitations below) the Manager shall carry out:

(1) the management obligations and functions of the Landlord in accordance with this Order and as set out in the Management Lease and in the Leases (save as regards the putting in place of insurance (and dealing with insurance claims) which shall be provided by the Landlord in accordance with the provisions of the Management Lease as though that Management Lease had continued in existence) and

(2) the management obligations and functions of the Management Company in accordance with this Order and as set out in the Management Lease and the Leases;

and in particular and without prejudice to the generality of the foregoing:

7.1 He shall observe the covenants on the part of the Management Company under the Leases with regard to the insurance of the Premises and shall take steps to procure that the Premises are insured by the Landlord as though the Management Lease had not been forfeit and pursuant to the Landlord's agreement to that effect contained in the recital hereof and that any insurance proceeds that relate to the Residential Part are laid out and applied in the same terms as provided for in clause 4.3 of the Management Lease;

7.2 For the purpose of complying with his functions in relation to insurance of the Premises, the Manager shall not insure the Premises in his own name but it shall be sufficient for him to satisfy himself that the Premises are from time to

time insured by and in the name of the Landlord provided that the interests of the Apartment Lessees are noted on the insurance policy (insofar as the same is permitted by the insurers);

7.3 Insofar as is necessary the Landlord shall be treated as agent of the Manager in incurring such costs of insurance as relate to the Residential Part;

7.4 On satisfying himself that insurance has been effected in accordance with the aforesaid provisions, he shall treat such proportion of the cost of insurance as relates to the Residential Part as the Landlord would have been able to recover from the Management Company under the terms of clause 3.2.1 of the Management Lease had it continued in existence as "*Expenses on Apartment Services*" under the terms of the Apartment Leases;

7.5 For the avoidance of doubt the Manager shall not be responsible for paying over such sums in respect of insurance in respect of the Residential Part to the Landlord until such time and to such extent as he has recovered such proportion of the costs as relate to insurance of the Residential Part pursuant to this Order and by way of service charge from the Apartment Lessees;

7.6 The Manager shall have no function in relation to the insurance of the Commercial Part other than the collection of insurance rent and or service charges from the Commercial Lessees in respect of the costs of insurance incurred by the Landlord;

7.7 The Manager shall pay over to the Landlord all sums that he receives from the Commercial Lessees and the Apartment Lessees in respect of insurance;

- 7.8 If for any reason the Manager is unable to satisfy himself that the Premises are insured by the Landlord in accordance with the terms of this Order he shall immediately apply to the Tribunal for further directions with respect to insurance;
- 7.9 He shall observe the covenants on the part of the Landlord and the Management Company under the Leases with regard to repairs to and maintenance of the Premises and to the provision of other services in respect of the Premises;
- 7.10 He should provide "*the Apartment Services*" and "*the General Services*" as defined in clause 7.1 of the Apartment Leases to the same extent as the Management Company would have remained liable to provide the same under the Apartment Leases had that company not been dissolved and the Management Lease forfeit;
- 7.11 He should provide "*the Landlord's General Services*" as defined in clause 11.1 of the Management Lease to the same extent as the Landlord would have been obliged to provide the same under the Management Lease had that lease had continued to subsist;
- 7.12 He should provide "*the Services*" as defined in each of the Commercial Leases to the same extent as the Landlord is liable to provide the same thereunder;
- 7.13 He should establish separate Service Charge Accounts and Reserve Accounts for the Residential Part and Commercial Part insofar as such accounts do not already exist or, insofar as such accounts already exist, he is unable to obtain authorisation to operate the same;

- 7.14 The Manager shall enforce the Lessees' covenants in the Apartment Leases and shall comply with the Landlord's reasonable requests or requirements in this regard save that he shall not (unless requested to do so by the Landlord) enforce clauses 5.7.1 and 5.7.2 and 5.11.1 to 5.11.12 thereof which shall remain the right/responsibility of the Landlord and he shall not without the prior written consent of the Landlord or the permission of the Tribunal exercise any right to forfeit or otherwise determine any of the Apartment Leases. For the avoidance of doubt the Landlord shall continue to retain the right to enforce the Lessee's covenants in the Commercial Leases and the Manager will take reasonable steps to provide to the Landlord with all necessary information and assistance in respect thereof; and
- 7.15 He shall comply with all statutory requirements, including those set out in the Landlord and Tenant Acts 1985 and 1987 as amended and he shall comply with the requirement of (1) the RICS Service Charge Residential Management Code (2) any Code approved by the Secretary of State from time to time under s.87 of the Leasehold Reform Housing and Urban Development Act 1993 (3) in respect of the Commercial Part, the RICS Service Charges in Commercial Property Code.
8. The Manager shall inform the Landlord in the event that any Lessee is in a material breach of the lessee's obligations in the Leases and/or has persistently delayed in paying sums demanded by the Manager and/or where the Manager intends to take enforcement action
9. During the period of his appointment, the Manager shall demand and collect and the Lessees shall pay to him pursuant to this Order the sums reserved and made payable by the Lessees under the Leases to either the Landlord or the Management Company (including any VAT payable thereon) and which would

have been payable if the obligations and duties set out above on the part of the Manager had been performed by the Landlord or Management Company as required by the Leases and/or Management Lease including but not limited to:

9.1 Rent;

9.2 Insurance rent;

9.3 Service charges, including "*the Service Charge Estimate*" and "*the Service Charge Balance*" payable under the terms of the Leases and all sums which under the terms of this Order the Manager is entitled to recover by way of service charge from the Lessees;

9.4 Arrears of any of the above together with any interest payable under the terms of the Leases on those arrears (whether those arrears accrued before or after the date of this Order and whether due to the Management Company (including prior to its striking off the register) or to the Landlord) insofar as the Manager considers it reasonable to do so.

10. The following provisions apply to the calculation of the sums which the Manager shall be entitled to claim from the Lessees pursuant to this Order in respect of the cost of complying with the management functions conferred on him by this Order. For the avoidance of doubt the provisions do not in any way limit the amount of service charge for which the Lessees are liable to pay under the Leases and as provided for in this Order:

10.1 For the purposes of calculating any service charge contribution due from the Apartment Lessees under the Apartment Leases and pursuant to this Order the Manager shall be entitled to treat 60.73% of the cost or anticipated cost of providing the "*Landlord's General Services*" (as defined

in clause 11.1 of the Management Lease) as "*Expenses on Apartment Services*" (as defined in clause 7.1 of the Apartment Leases);

10.2 For the purposes of calculating any service charge contribution due from the Apartment Lessees pursuant to this Order the Manager shall be entitled treat such proportion of the costs or anticipated costs of insuring the Building incurred by the Landlord as are reasonably attributable to "*the Residential Building*" as "*Expenses on Apartment Services*" as defined in clause 7.1 of the Apartment Leases and he shall be entitled to treat the balance of the cost as being attributable to the remainder of the Premises for the purpose of calculating any service charge due under the Commercial Leases;

10.3 For the purposes of calculating any service charge contribution due from the Commercial Lessees (or from the Landlord by way of contribution in respect of unlet units) the Manager shall be entitled to treat 39.27% of the costs or anticipated costs of providing the "*General Services*" as defined in clause 10.1 of the Management Lease as "*the Landlord's Expenses*" as defined in the Commercial Leases.

10.4 Insofar as the Manager incurs costs or expenses in performing his duties and functions as provided for in this Order and which sums do not strictly fall within the definition of costs or expenses recoverable from the Lessees under the Leases the Manager shall apportion the same between the Lessees in a fair and reasonable manner and the same shall be payable by the Lessees as reasonably required by the Manager.

10.5 For the avoidance of doubt the Manager shall have power to bring or defend proceedings in the county court and or leasehold valuation tribunal against any one or more of the Apartment Lessees (and to conduct any appeal in respect thereof) and may recover the costs and disbursements incurred by him in respect thereof in accordance with the provisions of clause 10 above

11. The Landlord shall on demand pay to the Manager such fair contribution towards "*the Landlord's Expenses*" as defined in the Commercial Leases as the Manager may in its reasonable discretion specify as being due in respect of any lettable unit in the Building which is unlet (if any).
12. The Manager shall be under a duty to account to the Landlord for the rent and any other monies received and lawfully due hereafter to the Landlord (including any insurance rent and other payments made in respect of the cost of insurance) with the exception of service charges which shall be applied by the Manager in respect of the Landlord's obligations to provide repairs and other services under the Management Lease and in the Commercial Leases.
13. For the purpose of accounting to the Landlord for sums as required under para 12 hereof, the Manager shall treat all arrears of ground rent and insurance rent (whether payable by way of service charge or otherwise) which had accrued due from the Apartment Lessees before the date upon which the Management Lease was forfeit as being due to the Landlord and not the Management Company and the Landlord shall treat any such payments as being in partial or full (as the case may be) discharge of any outstanding rent and insurance rent due to it from the dissolved Management Company under the terms of the Management Lease and shall give credit for any such sums received in diminution of the Funds required to be paid to the Landlord as a condition of the Management Lease being restored in the name of the Management Company as though it had never been forfeit
14. The Manager shall be entitled to demand and collect the sums set out in Schedule 1 in respect of his management of the Premises and in respect of his performance of the terms of this Order and such sums shall be recoverable from the Apartment Lessees and Commercial Lessees by way of service charge as though they had been costs of management incurred by the Management Company and the Landlord respectively.

15. Insofar as the remuneration of and or costs of the Manager relate to the Commercial Part and are not recoverable from the Commercial Lessees (having taken all reasonable steps in respect thereof), those costs and that remuneration shall be borne by the Landlord.
16. The Manager will be entitled to appoint, if he thinks fit, any Surveyor, Architect, Engineer, Solicitor or Barrister and other appropriate persons to assist him in carrying out any duties contained in clause 2.5 of the RICS Service Charge Residential Management Code and/or under the RICS Service Charges in Commercial Property Code and will be entitled to recover the cost thereof from the Lessees of the Premises pursuant to this Order and through the service charge provided that always such costs are reasonably incurred and that the services of such a person are of a reasonable standard.
17. For the purpose of carrying out his functions, but subject to paragraph 7.14 above the Manager shall be entitled to exercise any rights of entry or other rights reserved to or otherwise conferred on the Landlord and or the Management Company in the Leases, the Management Lease and or Electricity Transformer Substation Chamber Leases. For the avoidance of doubt, this shall include the powers of investment set out in clauses 12.2 and 12.3 of the Apartment Leases.
18. To ensure the proper management of the property and its service charge account, the Manager shall be entitled to all reports, bank statements invoices, accounts and other documents relating to the Premises (save insofar as the same are subject to privilege) in the possession or control of (i) the Landlord, its solicitors, accountants, or agents; and (ii) any former officer, employee or agent of the Management Company and subject to payment of reasonable charges in respect of providing the same such charges to be recoverable by way of service

charge from the Apartment Lessees and Commercial Lessees in the same manner as the Manager's remuneration.

19. The officers, employees and agents of the Landlord and any former officer, employee or agent of the Management Company shall give all reasonable assistance and co-operation to the Manager while acting in accordance with his duties under this Order.

20. In addition to the above, the Manager shall comply with the Landlord's obligations under the Electricity Transformer Substation Chamber Leases insofar as they impose an obligation relating to the repair and or maintenance of the Premises on the Landlord and in addition he shall enforce such of the lessee's covenants therein as he considers appropriate in the interests of good estate management of the Premises as a whole. Save as set out herein the Manager shall undertake no other function relating to Electricity Transformer Substation Chamber Leases. The Landlord shall on demand pay to the Manager the estimated and or actual costs of complying with those obligations and or enforcing those lessee's covenants to the extent that such expenses are not recoverable in whole or in part from (i) the lessees under those leases; and or (ii) the Lessees by way of service charges payable under the Apartment and Commercial Leases.

21. For the avoidance of doubt the Manager shall take no part in any rent review to be carried out under the terms of the Lease of Unit 3 dated 1 November 2004, such review remaining entirely within the control of the Landlord.

22. The Manager along with the Landlord, the Applicants and the Management Company (once itself restored) shall have permission to apply to the Tribunal for

further directions or orders in relation to the above interim management order at any time.

23. The application under section 24 of the Act be adjourned generally with liberty to restore in accordance with the provisions of this Order.

SCHEDULE A – THE LESSEES WHO ARE APPLICANTS

SCHEDULE 1 - THE MANAGEMENT FEE

1. The Manager shall be entitled to charge the sum of £11,500 plus VAT and disbursements per year by way of basic management fees to cover those day to day duties referred to in the RICS Service Charge Residential Management Code (with the exception of duties under Clause 2.5 of the Code). There would be an initial set up fee of £680 plus VAT.
2. In respect of the obligations under clause 2.5 of the RICS Service Charge Residential Management Code and under the RICS Service Charges in Commercial Property Code the Manager shall be entitled to charge an hourly rate for work reasonably and properly carried out at the rate of:
 - (a) £120 per hour for the Manager or
 - (b) £75 for other persons employed by or on behalf of the Managerplus VAT and disbursements.
3. Payment under 1 above is to be made by equal instalments in advance on 25th March, 24th June, 29th September and 25th December.
4. Payment under 2 above is to be made within one month of the receipt of the relevant invoice relating thereto.

SCHEDULE 2 – THE LEASES

PART 1 – The Apartment Leases

[Please list]

PART 2 – The Commercial Leases

[Please list]

SCHEDULE 3 – THE FUNDS

| | |
|--|----------------|
| Ground rent due up to and including 25.03.2010 | £3,937.50 |
| Further ground rent due to date of relief | £x |
| Judgment sum due 17.02.09 | £48,397.31 |
| Costs awarded | £3,674.41 |
| Interest 17.02.09 to 16.06.09 (119 days on £48,397.31 @ 8%) | £1,262.31 |
| Interest 17.06.09 to 24.11.09 (160 days on £23,397.31 @ 8%) | £820.51 |
| Interest 25.11.09 to 31.12.09 (37 days on £12,897.31 @ 8%) | £104.59 |
| Interest 01.01.10 to 31.03.10 (90 days on £8,319.39 @ 8%) | £164.11 |
| Legal costs in connection with application for relief | to be assessed |
| Insurance sums paid 28.06.09 | £56,592.31 |
| Balance of sums expended by landlord or on behalf of landlord | |

in connection with the Maintenance/Management of
building from 17.02.2009 to date of Management Order
and not paid out of sums held by Austin Rees – sum
unknown estimated £12,000.00
not to exceed £15,000.00

Credit to be given for

1. Sums paid by Austin Rees to the Landlord

| | |
|----------|------------|
| 16.06.09 | £25,000.00 |
| 24.11.09 | £10,500.00 |
| 31.12.09 | £4,557.92 |
| 31.03.10 | £22,224.82 |

2. Any other Sums paid to the Landlord that relate to arrears prior to the forfeiture order dated 17th February 2009 (if any)
3. Sums received under paragraph 13 of the interim Management Order
4. In addition any amounts received in relation to ground rent from the date hereof of the management order to the date of relief

The indemnity provision:

The Landlord will subject to the Applicants and each of them indemnifying the landlord in full in respect of any claim made by any of the Apartment Lessees for repayment of the sums paid over by Austin Rees and referred to in paragraph 1 below (and the costs of any such claim) give credit against the sums due under the judgment made on 17.2.09 in claim number 8BN04365

SCHEDULE 4 – THE PROPOSED CONSENT ORDER

The Proposed Consent Order

IN THE BRIGHTON COUNTY COURT

CLAIM NO: 8BN04365

BETWEEN:

ARKGOLD INVESTMENTS LIMITED

Claimant

-and-

CITY LOFTS MANAGEMENT (ARGUS BUILDING) LIMITED

Defendant

DRAFT CONSENT ORDER

UPON the joint application of the parties for the making of an order in these terms

AND UPON the Claimant confirming to the court that it has not taken steps to enforce the order for possession at paragraph 1(ii) of the order of District Judge Gamba dated 10 February 2009 whether by taking possession of the Property or otherwise such that the Defendant is entitled to seek relief from forfeiture

AND UPON the Defendant's solicitors having undertaken to the Claimant's solicitors to pay the balance outstanding of the sums set out in Schedule 1 of this Order ("the Funds") agreed at the date hereof in the sum of £ as held by them on the Defendant's behalf to the Claimant's solicitors within 7 days of the date of this Order

AND UPON the Claimant agreeing that upon relief being granted as provided for below it will (subject to payment of its reasonable costs) support any application by the Defendant to the Land Registry to re-open title and/or open a new title for the Lease referred to below and to assist in respect of any requisitions made by the Land Registry.

AND UPON the Claimant agreeing that upon the grant of relief from forfeiture under paragraph 1 of this Order the Lease dated 21 January 2005 as varied by a Deed dated

18 March 2005 shall be restored as though it had never been forfeit and that the Defendant will have no further liability in respect of any service charges, rent or insurance rent accruing at any time before Midnight 23rd June 2010

IT IS ORDERED BY CONSENT THAT:

1. On the Funds being paid to the Claimant pursuant to the above referred to undertaking and payment of the costs ordered below, there shall be relief from forfeiture and the Defendant shall be entitled to hold the Property originally held under title number ESX283864 and comprised in the Lease dated 21 January 2005 as varied by a Deed dated 18 March 2005 without any new lease and the Lease shall be restored as though it had never been forfeit **[Alternatively the Order of District Judge Gamba dated 10 February shall be set aside and the Lease dated 21 January 2005 as so varied be declared to continue to subsist]**
2. The money judgments in clauses 1(iii), 2 and 3 of the Order of 10 February 2009 shall be deemed satisfied
3. The Defendant shall pay the Claimant's costs summarily assessed on the standard basis in the sum of £

SCHEDULE 1

THE FUNDS

| | |
|--|------------|
| Ground rent due up to and including 25.03.2010 | £3,937.50 |
| Further ground rent due to date of relief | £x |
| Judgment sum due 17.02.09 | £48,397.31 |

| | |
|--|----------------|
| Costs awarded | £3,674.41 |
| Interest 17.02.09 to 16.06.09 (119 days on £48,397.31 @ 8%) | £1,262.31 |
| Interest 17.06.09 to 24.11.09 (160 days on £23,397.31 @ 8%) | £820.51 |
| Interest 25.11.09 to 31.12.09 (37 days on £12,897.31 @ 8%) | £104.59 |
| Interest 01.01.10 to 31.03.10 (90 days on £8,319.39 @ 8%) | £164.11 |
| Legal costs in connection with application for relief | to be assessed |
| Insurance sums paid 28.06.09 | £56,592.31 |

Balance of sums expended by landlord or on behalf of landlord
in connection with the Maintenance/Management of
building from 17.02.2009 to date of Management Order
and not paid out of sums held by Austin Rees – sum
unknown estimated £12,000.00
not to exceed £15,000.00

Credit to be given for

1. Sums paid by Austin Rees to the Landlord

| | |
|----------|------------|
| 16.06.10 | £25,000.00 |
| 24.11.10 | £10,500.00 |
| 31.12.10 | £4,557.92 |
| 31.03.11 | £22,224.82 |

2. Any other Sums paid to the Landlord that relate to arrears prior to the forfeiture order dated 17th February 2009 (if any)
3. Sums received under paragraph 13 of the interim Management Order
4. In addition any amounts received in relation to ground rent from the date hereof of the management order to the date of relief

The indemnity provision:

The Landlord will subject to the Applicants and each of them indemnifying the landlord in full in respect of any claim made by any of the Apartment Lessees for repayment of the sums paid over by Austin Rees and referred to in paragraph 1 below (and the costs of any such claim) give credit against the sums due under the judgment made on 17.2.09 in claim number 8BN04365