

3185

LEASEHOLD VALUATION TRIBUNAL
FOR THE LONDON RENT ASSESSMENT PANEL

LON/00AG/LSC/2007/0091

Landlord & Tenant 1985 (as amended) s.27A

Property: Upper Maisonette, 84 Marquis Road London NW1 9UD

Applicants: Ms J. Toure (Tenant)

Represented by: Mr C. Tibber

Respondent: Mr T. Peters (Landlord)

Represented by: Mr Nicholas Baldock of Counsel

Hearing: 19th June 2007

Members of the Tribunal:

Mr L. W. G. Robson LLB(Hons) MCI Arb. (Chairman)

Mr N. Martindale FRICS

Ms R. Turner JP

Preliminary Matters

1. This case relates to an application made on 9th March 2007 under section 27A of the Landlord & Tenant Act 1985 (as amended). The Applicant seeks determination of the reasonableness and the amount of service charges relating to the financial years commencing on 1st January 2004, 1st January 2005, 1st January 2006, or to be incurred in the financial year commencing 1st January 2007 which the Respondent claims are payable under the terms of the lease of the property. A copy of the lease dated 14th April 1986 relating to the property is attached as Appendix A (the Lease).
2. Pre-Trial Directions were given at a Pre Trial Review held on 11th April 2007. The following matters were identified as being in dispute:
 - a) Internal repairs to the front staircase serving the property (carried out in 2004)
 - b) External repairs to the same staircase (yet to be carried out)
 - c) Structural Engineer's fee for a report dated 30th June 2004 on the same staircase
 - d) Work to move "electrical head"
 - e) Solicitors costs for the period to May 2006

3. The Directions also noted the parties' consent to the Tribunal dealing with the validity of three Section 146 notices served by the Respondent upon the Applicant on 10th November 2003, 9th December 2003, and 9th February 2005, even though such notices at the relevant time did not require a finding by the Leasehold Valuation Tribunal pursuant to Section 168 of the Commonhold and Leasehold Reform Act 2002.

Hearing

4. At the hearing on 19th June 2007, Mr C. Tibber of Oury Clark Goodman, Solicitors represented the Applicant. Mr Nicholas Baldock of Counsel (instructed by Daniel Harris, Solicitors) represented the Respondent. The Applicant did not attend but a witness statement dated 18th June 2007 was submitted on her behalf. The Respondent attended and was examined on his witness statement dated 18th June 2007.
5. Mr Tibber and Mr Baldock both made oral submissions by reference to skeleton arguments submitted to the Tribunal.
6. It was agreed that the Tribunal would hear evidence and submissions relating to the validity of the Section 146 notices first, and then move onto the charges in dispute.

Section 146 Notices

Notice dated 12th December 2003 (the repairs notice)

7. Mr Tibber submitted that the notice was defective:
 - a) because items 1 – 11 of the repairs schedule alleged breaches of Paragraph 8 of Part 1 to the Fifth Schedule, but breach of this paragraph could only occur if the tenant failed to do work within 3 months of a Landlord's notice. No such notice had been served.
 - b) Items 12 onwards in the notice alleged breach of Paragraph 2 of part II of the Fifth Schedule, i.e. a failure to decorate in every fifth year, but this had not been alleged in the notice.
 - c) Since forfeiture was not available, the costs of the S.146 Notice were not reasonably incurred.
 - d) In any event there was insufficient evidence as to the basis of the costs claimed.
8. Mr Baldock submitted that the tenant had undertaken to do the works in a letter dated 28th June 2006. She could not now object to payment of the costs of the notice.
9. The Tribunal concluded that the Respondent had used the wrong section in the lease relating to items 1-11. However he was entitled to serve notice relating to items 12-22 of the Schedule, although the Applicant would be entitled to relief under the Leasehold Property (Repairs) Act 1938 if a counter-notice was served. Despite the tenant being entitled to serve a counter-notice the landlord is entitled to the costs of the original notice.
10. The Tribunal relied upon its knowledge and experience when considering the amount of the costs. The solicitor's fees worked out at £450 plus VAT. At the

hourly rate quoted in evidence of £195 per hour, which is not an unreasonable rate for a North London solicitor, the time indicated about 2.5 hours' work. The solicitor would have to take instructions, read the lease and the surveyor's report before drafting the notice. The Tribunal considered that the time spent was reasonable. The surveyor's fee amounted to £1,100 plus VAT. Again the Tribunal considered the time taken, including taking instructions, reading the lease, inspection and reporting, and concluded the fee was not unreasonable.

Section 146 Notice dated 10th November 2003 (the first occupancy notice)

11. Mr Tibber submitted that the first subletting agreement was dated 15th March 2002. Notice had been given on 19th April 2002 in accordance with the lease. The Applicant alleged that the cheque for the notice fee had been cashed. The landlord's reply on 2nd May 2002 had amongst other things demanded rent and service charge. A further letter dated 4th July 2003 had again demanded rent and insurance premiums. A later agreement dated 1st October 2003 sublet the property to 2 individuals who were a couple who lived at the premises as a family. The S.146 notice dated 10th November 2003 alleged breach of paragraph 14 of Part 1 of the Schedule, (which requires the tenant to use the flat in one family occupation only) but as the couple was a family there was no breach, and there was no liability to pay the costs of an invalid notice. No details of the legal charges of £350 plus VAT had been given relating to a one page standard notice. The landlord had not disclosed if he was VAT registered.
12. Mr Baldock submitted that the letter dated 2nd May 2002 had notified the Applicant that the agreement did not comply with the lease. In a letter dated 26th September 2003 the landlord had requested details of the sub-tenants without result. A further request had been made on 2nd October 2003. The Applicant by letter dated 21st October 2003 had stated that the occupants had changed but relied on the previous tenancy agreement. It was impossible to tell from the names of the four tenants that they were a family or not. There were no terms in the agreement which indicated family occupation one way or the other. The Applicant's reply to the S.146 Notice on 12th November 2003 accepted that the flat was occupied by a "number of individuals", (inconsistently with her present position). Mr Baldock referred to the photographs of the occupants taken in 2004 included in the bundle and submitted that it was very unlikely that it was a family letting. He also submitted that breach of a user clause was a continuing breach, and any waiver of the breach which might have occurred was irrelevant.
13. The Applicant submitted a short witness statement dated 18th June 2007 but did not attend and was not examined. On this point she stated that she had been advised that "the term "family" was relevant to a house that was rented as a unit and not where the rooms had been let individually". She maintained that tenants had always been couples. The Respondent gave oral evidence following his draft statement prepared the day prior to the hearing. On this point he said that he had not banked the original cheque for the notice fee sent in April 2002. He had decided to wait and see whether the occupancy in 2002 was in breach of the Lease or not, rather than press the matter. He went to the downstairs flat regularly, and received complaints about noise. In 2003 when

he had been doing renovation work downstairs he noted about 8 or more people coming out of the upper flat. Shortly after the Applicant's solicitor's letter of 29th August 2003 he had gone inside the flat to inspect the damage to the ceiling, and there were beds in every room. It was almost like a hostel. On 28th June 2004 he had gone to the property and spoke to "Christian" who gave him a list of four occupiers. They all had different surnames and he had been told they were not a family. In July 2004 during the works to the roof he had noted that the number of people living in the flat had increased to six, three men and three women.

14. The Tribunal accepted the Respondent's evidence, which was specific, and quite consistent in the face of energetic cross-examination. The Applicant's statement was quite vague, and did not address several important factual matters. The Tribunal also noted the photographic evidence, including the presence of beds and other furniture debris on the balcony. This smacked of intensive residential occupation, not that of a couple and immediate family. While there is little useful legal authority on the definition of one family occupation, the Tribunal concluded that it was for the Applicant to show that there was family occupation, at least on the balance of probabilities, in the face of credible evidence to the contrary from the Respondent. This she had not been able to do. The Tribunal considered that although there had been a delay in the Respondent pressing the matter, this had been explained. Breach of a user covenant is a continuing breach, (see for example, Evans & Smith *The Law of Landlord & Tenant* 6th Edition, 2003, p.291). The issue of waiver was not relevant. Although both parties agreed that the breach had now been cured, the S.146 Notice was valid, and therefore the Respondent was entitled to the costs of the notice. The Tribunal considered that the figure of £450 plus VAT was not unreasonable. The solicitor would have had to take instructions and read the lease before preparing and serving the notice. Less than two hours' work was being charged. The VAT point raised by Mr Tibber was not relevant. The VAT rules provide that whether or not the Respondent is registered, the paying party is required to pay the VAT.

Notice dated 9th February 2005 (the second occupancy and noise notice)

15. Mr Tibber submitted that the same issues arose as those relating to the first occupancy notice. The Applicant denied that there were any breaches and that there was no evidence to support a breach of the covenant. It was not reasonable to serve a notice without inviting the Applicant's comments first. The amount of the costs was unreasonable. The Applicant stated that she had relet the property in January 2005 to two men "who occupied the flat as a couple".
16. Mr Baldock submitted that it was for the Applicant to prove that the occupancy did not breach the lease. The Applicant had been notified by letter on 12th December 2004 that there were complaints from downstairs about noise nuisance. The bill relating to the S.146 notice was in the bundle. The Respondent stated in his examination that he did not believe the men were a couple, and referred to complaints from his tenant about women upstairs.

17. The Tribunal noted that the notice complained of two separate issues, firstly breach of the covenant for one family occupation (discussed above), and secondly noise nuisance in breach of [Paragraph] 5 of the Fifth Schedule Part II, particularly walking about at all times, loud music and talking into the "early hours of the night".
18. No copy of the tenancy agreement has been produced by the Applicant relating to the January 2005 letting, although an attempt to give notice of the tenancy was made in a letter dated 17th March 2005.
19. The parties agree that the property had been relet to two men. The Applicant merely states that they were couple, but without any supporting evidence. The Respondent was adamant in cross examination that they were not a couple, referring to his considerable experience in the licensing trade, and to reports from his tenant that there were girls upstairs late at night. While none of this evidence is conclusive, again the Tribunal considered that in the face of credible evidence from the Respondent it was for the Applicant to prove that they were a couple, and this she had not done satisfactorily. This was a matter within her control, if she had chosen to exercise it, and it would be unreasonable to require the Respondent to prove that the occupants were not a couple.
20. The problem of noise nuisance had been raised by the Respondent on 10th December 2004. The Applicant's evidence suggested that the flat was empty at this time, although renovations were being carried out. The Respondent's evidence was that his tenants had complained of noise nuisance prior to this date. The problem was that there were no carpets as required by the lease. At some point afterwards he visited the flat to complain of the noise to an occupant identified as a Mr Clancy.
21. Both parties agreed that the noise nuisance had ceased to be problem after the recarpeting. The Respondent's evidence was that the recarpeting had been done after the notice was served. The Applicant's statement was silent on this point.
22. The evidence was unsatisfactory and seemed to conflict. The Tribunal decided to approach this matter by considering whether the Respondent was reasonable in serving the notice on 2nd February 2005, in the light of his knowledge at that time. It was not disputed by either party that at some point there was noise from the premises due to the lack of carpets. This may have been from the renovations, or occupants. The Respondent had certainly raised the matter on 10th December 2004. The Applicant had failed to reply to that point for seven weeks prior to the notice on 2nd February 2005. It was only six weeks after the notice that the tenant gave notice that the carpeting work had been done. The Tribunal concluded that it was more likely than not that the recarpeting had been done after the date of the notice. The Applicant was aware of the Respondent's concern. If the carpets had been laid by 2nd February it seems unlikely that the Applicant would have waited 6 weeks to notify the Respondent. Her statement was silent on the point, and she was not available for examination on it.

23. While as a matter of courtesy the Respondent might have requested details of the occupants prior to serving the notice, in the light of all that had gone before, and the Applicant's failure to reply about the noise nuisance, service of the notice seemed not unreasonable on 2nd February 2005. The Tribunal has decided (above) that the breaches complained of were valid ones at that date.
24. The arguments and conclusions about the reasonableness of the amount of costs have also been dealt with above. The Tribunal accepted that the costs charged for serving this notice of £450 plus VAT were reasonable.

The Service Charges

25. The Tribunal decided to start with the question of liability to repair the front staircase, and deal with the external staircase repairs first as this issue intrinsically affects most of the other service charge issues. The parties argued their cases under the headings of Internal Staircase Repairs and External Staircase Repairs, It seemed to the Tribunal that these headings are confusing, but it has adopted the headings used by the parties for convenience. To clarify, there is one staircase, which has had some work done on it, and other work which has yet to be done. The work which has been done (the Internal Staircase Repairs) is:

1. Structural Engineer's Report
2. Building works summarised in the estimate and bill of Quality Building & Roofing dated 8th July 2004, e.g.
 - Securing staircase to building with angle iron
 - Concreting the underside of the stairs with water proofed concrete
 - Adding a waterproofing layer to the side walls of the stairs and rendering them
 - Replacing a broken manhole cover

The work which has not yet been done, and is the subject of a dispute as to which party is obliged under the Lease to do it, is the cleaning off, preparation and asphaltting (or tiling) of the top side of the staircase (the External Staircase Repairs). It is not clear what work is intended to be done as the estimates are inconsistent, and Tribunal noted that the estimates are over two years old.

External Staircase Repairs

26. Mr Tibber referred to the Sixth Schedule, Part 1, paragraph 1(a) of the Lease, the relevant part of which provides for the landlord to repair the structure of the property including:
- (i) *the roofs and foundations*
 - (ii) *all the walls of the Property whether external or internal*
 - (iii) *the timbers joists and beams of the floors ceilings and roof in the Property (sic)*
 - (iv) *the chimney stacks gutters rainwater and soil pipes of the Property*
27. He contended that the external staircase was part of the structure as it either formed part of the roof of the basement or it was a wall. The Applicant had

asked the Respondent to repair it on numerous occasions since 1997. Some temporary repairs had been done by the Respondent, but the substantive work had still not been carried out and there was no obligation in the Lease for the Applicant to pay her contribution in advance. The Applicant should not be required to pay more than her proportion of the cost in 1997.

28. Mr Baldock submitted that the external staircase was within the tenant's demise because it was shown expressly as such on the plan. He relied upon Wigginton & Milner v Winster Engineering [1978] 1 WLR 1462 as authority that reference to the plan was permissible evidence. There was no express exclusion of the staircase. It was not a common part as it served only the Applicant's property. In answer to questions from the Tribunal he submitted that the problem was caused by the surface of the steps, not the structure. In his view the Lease generally should be interpreted as giving the Applicant the surface of the steps, even if it did not demise the substructure of them. However he agreed that the lease was not well drawn.
29. The Tribunal considered the Lease in some detail. The Respondent agreed in evidence that until 2003 he had carried out work to repair the steps himself on occasions. The engineer's report to the Respondent suggested that the leaks were caused by structural movement. Mr Lankester's report dated 30th June 2004 referred to "some movement in the stair as a gap had developed between the landing slab and the threshold." The Tribunal also relied on its own knowledge and experience of such matters and considered that the commonest cause of cracking in staircase construction of this kind was caused by differential movement between the stairs and the structure of the building. Failure of the surface render might contribute.
30. The Tribunal agreed with Mr Tibber's view that the stairs formed part of the roof of the flat downstairs, which tended to suggest that the staircase was a common part, and disagreed with Mr Baldock's view that the Lease could only be interpreted as demising the staircase to the Applicant. Mr Baldock struggled when asked to consider the possibility of whether a lease of the airspace might have been intended. On balance, the Tribunal decided that the external parts of the staircase were not the responsibility of the Applicant because even if the surface coating could be held to be thus, the structure of the staircase appeared to fall within the landlord's responsibility, and it appeared from the evidence that it was that part which had failed.
31. The Tribunal also noted that the Respondent had carried out repairs to the surface coating in the past between 1997 and 2003 at the request of the Applicant. The first indication given to the Applicant by the Respondent that this area was her responsibility was the Section 146 notice dated 9th December 2003. It was agreed that the Lease was badly drafted. There was a course of dealing which led to the conclusion that the Respondent had accepted that the surface coating of the staircase was his responsibility. Thus the Section 146 notice was erroneous on that point. The Tribunal decided that the work fell within the building service charge, and the cost should be apportioned accordingly, once it had been properly demanded under the terms of the Lease. The Tribunal did not accept Mr Tibber's view that the Lease did not allow for

any advance payments. Paragraph 14 of the Eighth Schedule has such provision, although the Respondent may find it difficult to comply with paragraph 14 at present.

Internal Staircase Repairs

32. Following from the findings above, the Tribunal decided that the Internal Staircase Repairs are also the responsibility of the Respondent, and a proportion is properly chargeable to the Applicant through the service charge. This point was not seriously disputed at the hearing. The bill was in the file. It seemed reasonable to do the work, the work done seemed reasonable, and at a reasonable cost.
33. The Tribunal did not accept Mr Tibber's submission that the staircase work should only be charged at the rate applicable in 1997. The Applicant has not had to pay for the work until it was done. Also no evidence was put forward suggesting how much less the work would have cost in 1997. Any attempt by the Tribunal to quantify the difference now would be mere guesswork.

Moving "Electrical Head"

34. Mr Tibber submitted that the work was occasioned by the failure to remedy the defects to the external staircase, or an improvement if the landlord had moved it for his own purposes. If the external staircase was the landlord's responsibility, or an improvement, the tenant was not liable. He had no views on the cost of the work.
35. Mr Baldock submitted that moving the electrical head had been necessary in order to repair the defects in the external staircase. Moving it while doing those repairs was not an improvement.
36. The Tribunal considered the photographs of the electrical head before and after it was moved. It was directly under defect in the staircase. Prior to the work it was old and in an untidy collection of wires serving both properties. The Tribunal noted that at one point the Applicant had complained about burning smells from the head after a water leak. After the work the head had been moved to a nearby position, and was much tidier and with newer fittings. The Tribunal decided that moving the electrical head was necessary for the work to be done, and not an improvement. From the photographs there seemed no safe way for the work to be done without moving the head. The Tribunal decided that the head was a common item to be apportioned in the service charge. The EDF Energy bill for moving the head was produced, and since no one but the electric supply company was legally allowed to work on it, the bill of £1,143.46 appeared reasonable.

Structural Engineer's Fee

37. The fee of £50 relates to the structural engineer's report by Mr Roger R. Lankester dated 30th June 2004 (noted above), reporting on the problems with the front staircase. At the hearing this fee was not seriously contested, except as to whether it was chargeable to the Applicant. The invoice was in the bundle, and the Tribunal considered that for a professional report it was good

value. The Tribunal decided that this fee should properly be treated as part of the costs of the repairs to the staircase, and added to the service charge.

Legal Costs – since February 2005

38. Mr Tibber submitted that the costs were apparently still rising. No bill had been submitted by the Respondent's solicitor. There was no reference to an hourly rate, or copy of the client care letter. There was no explanation as to what the costs were in connection with. The costs demanded apparently related to the period from November 2004 to May 2006, with more being added later. If the costs were being incurred relating to non-payment of service charges, no valid demand had actually been made since 2001.
39. Mr Baldock submitted that the Applicant was ignoring the reality of the negotiations in this case. The hourly rate of £195 per hour was reasonable, and it looked from the summary as if it referred to about 38 hours' work. There was no need to see a client care letter. Mr Peters had given evidence to the Tribunal of the fact that he had paid his solicitor £5,000 in advance. The Respondent was entitled to charge the costs through the maintenance charge provisions in the Lease.
40. The Tribunal noted the disproportionate amount of the charges in relation to the sums of money in dispute, approximately twice the amount in dispute. It also noted Paragraphs 4 and 9 of the Fifth Schedule Part 1 of the Lease, which allowed the landlord to enter, carry out work, and charge the cost to the tenant if the tenant was in default of its repairing obligations. This would have been by far the cheaper course. The relevant part of the maintenance charge is at Paragraph 11a) of the Eighth Schedule, entitling the landlord to recover all legal and proper costs incurred:
- "in the running and management of the Property and in the enforcement of the covenants on the part of the Lessee and of the lessees of Other Demised Parts of the Property..... insofar as the costs of enforcement are not recovered from the lessee in breach..."*
41. The Tribunal noted that the final amount claimed in the submissions amounted to £12,147.81 apparently relating to 37.2 hours work up to 2nd May 2006, and 5.3 hours of work from 3rd May 2006 to 9th March 2007 (the date of issue of this application). There were no details of the work. Counsel's fee note included in the total amount (dated 13th July 2004) related to work done on 8th June, 22nd June 2004, i.e. advising in conference and drafting a letter. The Tribunal had found against Respondent on a significant issue; the responsibility for the works to the staircase. The solicitor also seemed to be acting as the managing agent in this case at an hourly rate that was inappropriate for that type of work.
42. While in other circumstances the Tribunal would be reluctant to make any finding on these costs without a valid demand from the Respondent, the parties had made it clear that they wished the Tribunal to fix a figure to give them some finality, rather than produce itemised bills, requiring a further

application. The Tribunal therefore decided to fix the costs using the following calculations;

Management and Legal Work - say 20 hours	£3,900
Counsel's Fee	£1,250

	£5,150
Add VAT:	901.25

	£6,051.25
Tenant's 2/3rds proportion	£4,034.17

In making this calculation the Tribunal has not considered any issues under Section 20B, which were not argued as part of this application.

Section 20C Application

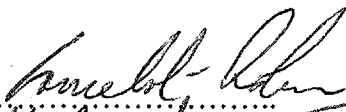
43. Mr Tibber submitted that the Respondent had served three Section 146 notices. Having been advised wrongly, he stopped making formal demands as long ago as 2001. In 2004 the Applicant had no idea what was being asked of her. Eighteen months later the Applicant received notice of another amount of £11,500 relating to solicitors' costs. At the date of the hearing she had still not received a valid service charge demand. The correspondence over the proposed sale of the property in the bundle demonstrated the problem. All the Applicant wanted was clarification once and for all what she was liable for. The Applicant had done nothing wrong and it would be quite wrong for the Respondent to be allowed to recover the costs of the LVT application.
44. Mr Baldock submitted on the forfeiture point that whether the lease was forfeit or not, once the right to forfeit had arisen, the Respondent had to decide whether or not he should waive the breach. Other than that he invited the Tribunal to read the correspondence.
45. The Tribunal noted that both sides had been successful on substantial points. Neither side was totally blameless for the situation escalating out of all proportion to the amounts in dispute. The Tribunal decided to order under Section 20C that only a half of the costs incurred by the Respondent in this application should be chargeable to the service charge for the purposes of calculating the Applicant's proportion. This decision does not preclude any further application on reasonableness once such costs have been quantified and demanded.

Summary of Amounts claimed and allowed

46. For clarity the Tribunal made the following calculations to assist the parties:

<u>Item</u>	<u>£ Claimed</u>	<u>£ Allowed</u>
Staircase repairs done	986 (2/3)	986
Engineer's fee	50	33.33
Moving Electrical Head	762.23 (2/3)	762.23
Staircase Repairs to be done (Estimated)	1,486.37	1,000

Section 146 Notices (Total)	2,761.25	2,761.25
Legal costs between 2.5.04 and 11.3.07	12,147.81	4,034.17

Chairman: 
Dated: 9th August 2007

Appendix A

Copy of Lease dated 14th April 1986 attached hereto

DATED 21st April 1986 1986

TONY LESLIE FREDERICK PETERS

-to-

NIGEL MARTIN LEWIS and
SHAHIN ESKANDARI LEWIS

L E A S E

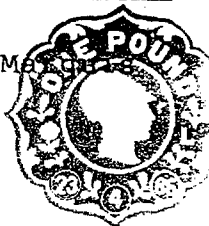
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Upper Ground and First floor flat,
84 Marquis Road, Camden Square,
London, NW1.

INLAND REVENUE
21 APR 1986
FINANCE ACT 19
C

H.M. LAND REGISTRY

Land Registration Acts 1925 to 1971



Administrative Area : ST. PANCRAS, GREATER LONDON
Title Number : LN 59888
Property : Upper Maisonette, 84 Marquis
London, N.W.1.

PARTICULARS

14th April 1986

- Date of Lease:
1. Lessor(s): TONY LESLIE FREDERICK PETERS of 84 Marquis Road, London, N.W.1.
 2. Lessee(s): NIGEL MARTIN LEWIS and SHAHIN ESKANDARI LEWIS both of 84 Marquis Road London NW1
 3. Flat on the Upper Ground and First Floors
 4. Other demised premises: Garden and roof terrace
 5. The Property: 84 Marquis Road, Camden Square, London, N.W.1.
 6. Premium: £87,500.00
 7. Rents: £100 for the first 25 years of the term
£200 for the next 25 years of the term
£400 for the next 25 years of the term
£550 for the next 25 years of the term
£700 for the next 25 years of the term
 8. Interim Maintenance Charge: £150.00 per annum
 9. Lessee's share of Maintenance Fund: Two-thirds
 10. Term: 125 years from the 25th December 1985

T H I S L E A S E is made on the date stated in the Particulars
B E T W E E N The Lessor specified in Paragraph 1 of the
Particulars ("the Lessor") and the person or persons specified in
Paragraph 2 of the Particulars ("the Lessee")

A N D W I T N E S S E T H :

1. UNLESS the context requires otherwise the various expressions set out in the First Schedule shall have the meaning or bear the interpretation there set out
2. IN consideration of the Premium specified in Paragraph 6 of the Particulars paid by the Lessee to the Lessor (receipt of which is acknowledged by the Lessor) the Lessor as Beneficial Owner DEMISES to the Lessee ALL THOSE the Demised Premises TOGETHER with the Included Rights but SUBJECT to the Excepted Rights TO HOLD the same unto the Lessee for the term of years specified in Paragraph 10 of the Particulars YIELDING AND PAYING yearly during the said term the rents specified in Paragraph 7 of the Particulars such rents to be paid in advance without deduction (save as authorised or required by law) by equal half-yearly payments on the Thirty first day of March and the Thirtieth day of September in every year the first proportionate payment thereof in respect of the period from the date hereof to the date for payment of rent next following to be made on the execution hereof Provided that at no time shall the Lessee be required to pay a rent which would under legislation restricting or controlling rents prohibit the charging of a premium on an assignment and in such case the rent reserved by this Lease shall only be payable to the extent that it would be immediately below the limit imposed by this proviso

3. THE Lessee COVENANTS (i) with the Lessor to observe and perform the obligations and regulations set out in Part I of the Fifth Schedule and in the Ninth Schedule and (ii) with the Lessor and with the lessees of all the other flats in the Property to observe and perform the obligations set out in Part II of the Fifth Schedule

4. THE Lessor COVENANTS with the lessee so as to bind itself and its successors in title the persons for the time being entitled to the reversion of the Demised Premises immediately expectant on this Lease but not so as to bind itself after it shall have parted with such reversion or to incur further liability thereafter to observe and perform the obligations and provisions set out in the Sixth Schedule

5. THE Lessor and the Lessee agree the provisions set out in the Seventh Schedule

6. PROVIDED ALWAYS and it is hereby agreed that if the rents hereby reserved or any part thereof shall be unpaid for twenty one days after becoming payable (whether formally demanded or not) or if any covenant on the part of the Lessee herein contained shall not be performed or observed then and in any such case it shall be lawful for the Lessor at any time thereafter to re-enter upon the Demised Premises or any part thereof in the name of the whole and thereupon this demise shall absolutely determine but without prejudice to any right of action or remedy of the Lessor in respect of any antecedent breach of any of the Lessee's covenants or the conditions herein contained

I N W I T N E S S whereof the parties hereto have duly sealed and executed this Lease on the date specified in the Particulars

THE FIRST SCHEDULE

Definitions and Interpretations

- (i) "Lessor" and "Lessee" include their respective successors in title and if the Lessee is more than one person then the covenants and obligations on the Lessee's part shall be construed as joint and several
- (ii) Words importing the masculine gender shall where necessary be construed as importing the feminine and words importing the singular number shall where necessary be construed as importing the plural and vice versa
- (iii) "The Demised Premises" means the premises referred to in Paragraphs 3 and 4 of the Particulars and more particularly described in the Second Schedule
- (iv) "The Flat" "The Garden" "The Roof Garden" "The Patio" "The Balcony" "The Terrace" "The Attic" "The Parking Space" and "The Cupboard" are parts of the Demised Premises so described in the Second Schedule and the expression "The Flat" includes any maisonette described as "The Flat" in the Second Schedule
- (v) "The Property" means the land and building of which the Demised Premises form part and which is specified in

Paragraph 5 of the Particulars and references thereto includes any building erected thereon

- (vi) "The Included Rights" means the rights easements and privileges specified in the Third Schedule
- (vii) "The Excepted Rights" means the exceptions and reservations specified in the Fourth Schedule-
- (viii) "Conduits" means and includes chimneys flues ventilating ducts cisterns tanks radiators water and gas and electricity supply pipes sewers drains tubes meters soil pipes waste water pipes central heating pipes and also wires or cables used for the conveyance of electrical current and all valves traps and switches appertaining thereto and includes (unless expressly excluded) any wires cables or apparatus belonging to any public utility supply authorities or any person or corporation supplying any television aerial rediffusion service internal telephone system or door porter system
- (ix) "The Maintenance Year" means a period commencing on the First day of January in each year and ending on the thirty-first day of December in the following year
- (x) "The Maintenance Charge" means the amount or amounts from time to time payable under Clause (2) of Part I of the Fifth Schedule and shall include any Value Added Tax payable thereon
- (xi) "The Interim Maintenance Charge" means the sum specified in Paragraph 8 of the Particulars or one half of the Maintenance Charge for the immediately preceding Maintenance Year whichever is the greater

- (xii) "The Maintenance Fund" is the amount from time to time unexpended from the payments of the Maintenance Charge made to the Lessor by the Lessee and the lessees of Other Demised Parts of the Property
- (xiii) "The Common Parts" means all those parts of the Property not exclusively enjoyed by lease licence or otherwise by the occupiers of the Demised Premises or Other Demised Parts of the Property
- (xiv) "Central System" means the system (if any) existing at the date hereof for the supply of hot water and/or central heating other than one (if any) solely serving the Demised Premises or solely serving any one flat in the Property
- (xv) "The Headlease" means the lease (if any) under which the lessor holds the Property at the date hereof
- (xvi) "Other Demised Parts of the Property" means any part of parts of the Property being a flat garden roof garden patio balcony terrace attic garage shed parking space or cupboard which are demised on leases containing covenants on the part of the lessee similar to those herein contained

THE SECOND SCHEDULE

The Demised Premises

THE FLAT specified in Paragraph 3 of the Particulars and shown edged red on the plan annexed hereto together with the garden roof garden patio balcony terrace attic parking space or cupboard (if any) specified in Paragraph 4 of the Particulars and shown edged ^{green} ~~blue~~ on the said plan ALL OF WHICH premises for the purposes of obligation as well as grant (but subject to the provisions herein

contained prohibiting decoration or alteration of the exterior of the Property by the Lessee) INCLUDE :

- (i) the internal plaster tiles or other coverings of the external and internal load-bearing walls of the Flat and cupboard (if any) and the doors door-frames windows and window-frames fitted in such walls and the glass fitted in such window-frames
- (ii) any of the walls or partitions lying within the Flat and cupboard (if any) which are not load-bearing or do not form part of the main structure of the Property including the plaster tiles or other coverings of such walls or partitions and the doors and door-frames and any glass and locks fitted in such doors walls partitions and door-frames
- (iii) the plaster tiles or other coverings of the ceilings of and the floorboards and other surfaces of the floors of the Flat and cupboard (if any)
- (iv) where the Flat is situate on two or more floors the timbers and joists and other structural members between such floors and to which are fixed or suspended floors and ceilings which are wholly within the Flat and all internal staircases connecting such floors
- (v) the surface of the floor of any balcony roof garden terrace or patio included in the demise and any fence or railings surrounding the same
- (vi) all Conduits (save those belonging to any public utility supply authorities or to any person or company supplying any

- television aerial rediffusion service internal telephone system or door porter system) which are situate in any part of the Property and serve exclusively the Demised Premises
- (vii) all fixtures and fittings in or about the Demised Premises (other than Tenant's fixtures and fittings) and not hereinafter expressly excluded
 - (viii) the surface of any parking space and any car port or covering erected thereon included in the demise
 - (ix) such of the walls fences railings or hedges surrounding the garden patio or terrace included in the demise as belong to the Property And It is Hereby Declared that if any wall or fence railing or hedge shall be a party wall or fence it shall be maintained and repaired accordingly

B U T E X C L U D E (UNLESS EXPRESSLY INCLUDED) :-

- (a) any part or parts of the Property lying above the said surfaces of the ceilings or below the said floor surfaces
- (b) the main timber joists or structural parts of the Property and the external and internal load-bearing walls of the Demised Premises
- (c) the structural parts of any balconies roof gardens patios or terraces
- (d) any Conduits in the Property which do not serve exclusively the Demised Premises and any Conduits belonging to any public utility supply authorities or to any person or company supplying any television aerial rediffusion service internal telephone system or door porter system

THE THIRD SCHEDULE

The Included Rights

1. The right for the Lessee and all persons authorised by him in common with others enjoying the like right at all times and for all purposes incidental to the occupation and enjoyment of the Demised Premises to use on foot only (except in the case of drives or forecourts adapted for vehicular use) the common entrance hall staircases and passages in the Property giving access to the Demised premises and any of the common external paths driveways staircases or forecourts leading from the public highway or footpath to the main entrance of the Property the Demised Premises or the refuse area (if any) used in connection therewith PROVIDED ALWAYS that the Lessor shall have the right in the interests of good estate management temporarily to close or divert such parts of the Property specified above provided that such closure or diversion shall not prevent the Lessee from having access to or egress from the Demised Premises at all reasonable times

2. The right in common with all other persons entitled to the like right to the free and uninterrupted passage and running of gas electricity water and soil and all other services to and from the Demised Premises in through and along the Conduits now laid or which may at any time during the term be laid in or through the Property or any part thereof and serve the Demised Premises

3. The right for the Lessee with servants agents and workmen to enter upon any part of the property as may be reasonably necessary to enable the Lessee to comply with his obligations hereunder or to read any meters situated in any part of the Property which serve the

Demised Premises Provided Always that the Lessee shall (except in emergency) before exercising such right in respect of any part of the property other than the Common Parts give reasonable prior notice in writing to the occupier of such part of the Property and to the Lessor specifying the purpose for which entry is required and the Lessee shall forthwith make good all damage to the Property occasioned by such entry or any works consequent thereon

4. The right to subjacent and lateral support and protection for the Demised Premises from the remainder of the Property not hereby demised as enjoyed at the date hereof

5. The right for the Lessee in common with all other persons entitled to any like or similar right to use any common television aerial rediffusion service for wireless or television programmes and internal telephone system or door porter system which may from time to time be installed on the Property subject to the Lessee complying with any relevant provisions of such agreement or agreements as may from time to time be made between the Lessor and the company or companies installing supplying or maintaining the same and any rules which the Lessor may from time to time make in respect thereof

6. The right in common with all other persons entitled to a like right to keep a dustbin in the refuse area provided

7. The benefit (in common with the other persons entitled to such benefit) of any covenants or agreements entered into or which may hereafter be entered into by the lessees of any Other Demised Parts of the Property with the Lessor or any of its predecessors or successors in title similar to those contained in Part II of the Fifth Schedule hereto

8. The right in common with all other persons entitled to a like right to use the communal gardens (if any) forming part of the Property or the facilities or amenities (if any) the benefit or use of which is common to the Property and any adjacent or neighbouring properties. The Lessee not causing any inconvenience or annoyance to other persons entitled to use any such communal gardens facilities or amenities.

THE FOURTH SCHEDULE

The Excepted Rights

1. The easement rights and privileges over along through and in respect of The Demised Premises equivalent to those set out in Paragraphs 2 3 4 and 5 of the Third Schedule hereto.
2. The right for the Lessor and its servants agents and workmen at all reasonable times upon reasonable prior written notice (except in emergency) to enter the Demised Premises for the purpose of carrying out its obligations under the Sixth Schedule hereto the Lessor forthwith making good all damage to the Demised Premises occasioned by such entry or any works consequent thereon.
3. The right for the Lessor and any person or persons authorised by the Lessor at any time or times to rebuild reconstruct modify or alter the Property or any part thereof (except the Demised Premises) or any building adjoining or adjacent to the same or to erect a new building or buildings on any part of the Property so adjoining or so adjacent to such height elevation extent or otherwise as the Lessor shall think fit (Provided that as little inconvenience or disturbance as practicable is caused) and so that the access of light and air to the Demised Premises shall until

interrupted be deemed to be enjoyed by virtue of these presents which shall be deemed to constitute a consent or agreement in writing for that purpose within the meaning of Section 3 of the Prescription Act 1832 so that the enjoyment thereof shall not nor shall these presents prevent any such rebuilding alteration or erection as aforesaid And Provided that any such works of construction demolition or alteration are carried out with due regard to modern standards and methods of building and workmanship and provided all damage to the Demised Premises is forthwith made good the Lessee shall permit such works to continue without interference or objection

4. The right for the Lessor to erect and maintain such wireless and television aerials or other such apparatus referred to in Paragraph 5 of the Third Schedule on the roof or exterior walls of the Property and to enter and run wires and cables connecting such aerials or other apparatus through the Demised Premises only insofar as it is not practicable for these to be run outside the Demised Premises making good forthwith any damage thereby caused and the right of the Lessor and all persons authorised by it to such aerials or other apparatus

THE FIFTH SCHEDULE

PART I

Lessee's Covenants

(1) To pay the reserved rents the maintenance charge and the interim maintenance charge at the time and in the manner provided for herein and to pay interest thereon at the rate equivalent to ~~4%~~ ^{P&B} ~~above~~ Lloyds Bank Plc base rate for the relevant period on any sum

or sums outstanding for more than fourteen days from the date such sums were due whether demanded or not before as well as after any judgement

(2) To pay to the Lessor a Maintenance Charge being that percentage specified in Paragraph 9 of the Particulars of the expenses which the Lessor shall in relation to the Property reasonably and properly incur in each Maintenance Year and which are authorised by the Eighth Schedule hereto (including the provision for future expenditure therein mentioned) the amount of such Maintenance Charge to be determined in the absence of any statutory provision to the contrary by the Lessor's Managing Agent or Accountant as an expert and not as an arbitrator as soon as conveniently possible after the expiry of each Maintenance Year and FURTHER on the 31st day of March and the 30th day of September in each Maintenance Year ("the payment dates") to pay in advance on account of the Lessee's liability under this Clause the Interim Maintenance Charge the first proportionate payment thereof in respect of the period from the date hereof to the next following payment date to be made on the execution hereof PROVIDED THAT upon the Lessor's Managing Agents' or Accountants' certificate being given as aforesaid there shall be paid by the Lessee to the Lessor any difference between the Interim Maintenance charge and the Maintenance Charge so certified

(3) To pay all general and water rates and other outgoings of a recurring and non-capital nature which are now or may during the term hereby granted be payable in respect of the Demised Premises

(4) To pay to the Lessor all costs charges and expenses

(including legal costs and fees payable to a Surveyor) which may be incurred by the Lessor in contemplation of or incidental to the preparation and service of a Notice under Sections 146 and 147 of the Law of Property Act 1925 or any re-enactment or modification thereof notwithstanding forfeiture may be avoided otherwise than by relief granted by the Court

(5) To comply with all local bye-laws statutory requirements and other lawful requirements applicable to the Demised Premises and to keep the Lessor indemnified against all claims demands and liability arising thereon

(6) On the determination of the said term to yield up to the Lessor the Demised Premises in good and substantial repair in accordance with the covenants by the Lessee herein contained

(7) To permit the Lessor and its duly authorised Surveyors or Agents with or without workmen at all reasonable times by appointment (but at any time in case of emergency) to enter into and upon the Demised Premises or any part thereof for the purpose of viewing and examining the state of repair thereof or of the Property

(8) In accordance with the Lessee's covenants in that behalf hereinafter contained to repair decorate and make good all defects in the repair decoration and condition of the Demised Premises of which notice in writing shall be given by the Lessor to the Lessee within three calendar months after the giving of such notice

(9) If at any time during the said term the Lessee shall make default in the performance of any of the covenants herein contained for or relating to the repair decoration or maintenance of the Demised Premises then to permit the Lessor at all reasonable times

during the said term with or without workmen and others to enter upon the Demised Premises and repair decorate maintain or reinstate the same at the expense of the Lessee (but so that no such entry repair decoration maintenance or refurbishment shall prejudice the right of re-entry under the provisions hereinbefore contained and to repay to the Lessor on demand the cost of such repair decoration maintenance or reinstatement (including any Solicitors' Counsels' and Surveyors' costs and fees reasonably incurred by the Lessor in respect thereof) such costs to be recoverable by the Lessor as if the same were rent in arrear

(10) To permit the Lessor and the Lessor's Surveyors or agents with or without workmen and others at all reasonable times upon prior notice in writing (and in case of emergency without notice) to enter into and upon the Demised Premises or any part thereof for the purpose of repairing maintaining and renewing any part of the Property and for the purpose of making laying down repairing maintaining testing disconnecting stopping up renewing rebuilding cleansing lighting and keeping in good order and condition all Conduits gutters party structures and other conveniences belonging to or serving or used for the Property ^{PSB} without prejudice however to the obligations of the Lessee hereunder with regard thereto) PROVIDED THAT the Lessor shall as soon as is reasonably practicable make good all damage to the Demised Premises and to the fixtures Conduits appurtenances goods or effects installed therein or affixed thereto caused by the carrying out of any work in this present sub-clause mentioned or otherwise referred to

(11) In the event of the Demised Premises or any part of the

Property being damaged or destroyed by fire or other causes at any time during the term hereby granted and the insurance money under any insurance against fire or other risks effected thereon being wholly or partially irrecoverable by reason solely or in part of any act or default of the Lessee then and in every such case the Lessee will forthwith pay to the Lessor the whole or a fair proportion of the cost of rebuilding the same and any dispute arising out of this provision shall be referred to arbitration in accordance with the provisions of the Arbitration Act 1950 or any statutory modification or re-enactment thereof for the time being in force

(12) Not at any time without licence in writing of the Lessor first obtained such licence not to be unreasonably withheld nor except (if such licence shall be granted) in accordance with plans and specifications previously approved by the Lessor and to the Lessor's reasonable satisfaction and in compliance with all relevant Local Authority regulations and requirements to make any alteration or addition whatsoever in or to the Demised Premises except insofar as relates to non-structural internal alterations or additions either externally or internally or to make any alteration or aperture in the plan external construction height walls timbers elevations or architectural appearance thereof nor to cut or remove the main walls or timbers of the Demised Premises unless for the purpose of repairing and making good any defect therein nor to do or suffer in or upon the Demised Premises any wilful or voluntary waste or spoil

(13) Not (except with the written consent of the Lessor such consent not to be unreasonably withheld and to the Lessor's

satisfaction) to erect upon or affix to the Demised Premises or any part thereof any machinery or mechanical or scientific apparatus or any television or radio receiving aerials other than the usual domestic kitchen equipment and internal radio and television aerials

(14) Not to hold on any part of the Demised Premises any sale by auction nor to use the same or any part thereof nor allow the same to be used for any illegal or immoral purposes but only to use the same as a self-contained residential flat with appurtenances in one family occupation only

(15) Not without the Lessor's consent such consent not to be unreasonably withheld to exhibit on the outside or in the windows of the Demised premises any name-plate placard or announcement of any description

(16) Without prejudice to the other covenants in this Lease contained not to do or permit to be done any act matter or thing on or in respect of the Demised premises which contravenes the provisions of the Town and Country Planning Acts 1971 to 1984 or any enactment amending or replacing the same and to keep the Lessor indemnified against all claims demands and liabilities in respect thereof

(17) Within seven days of the receipt of notice of the same to give full particulars to the Lessor of any permission notice order or proposal for a notice or order relating to the Demised Premises or the Property made given or issued to the Lessee by any Government Department local or public authority under or by virtue of any statutory powers or otherwise and if so required by the Lessor to produce such permission notice order or proposal for a notice or

order to the Lessor AND ALSO without delay to take all reasonable or necessary steps to comply with any such notice or order at the Lessee's own expense insofar as the same relates to the Demised Premises

(18) To give notice of any transfer assignment subletting parting with possession charge or other devolution of the term hereby created within twenty one days of such devolution together with a certified copy of every instrument of such devolution to the Lessor's solicitor paying a registration fee therefor of Ten Pounds (£10.00) plus any Value Added Tax payable thereon at the rate for the time being in force

(19) (a) Not to assign underlet share or part with possession of part only of the Demised Premises

(b) Not to assign underlet share or part with or share possession of the whole of the Demised Premises during the last seven years of the term without the Lessor's consent in writing such consent not to be unreasonably withheld

(c) To procure ^{a PAB} that any underletting of the Demised Premises contains restrictions similar to those set out in the Ninth Schedule and does not contain terms inconsistent with the terms of this Lease

(20) To pay the Lessor's proper legal and Surveyor's costs incurred in connection with applications for any consent under the terms of this Lease whether or not such consent is granted

THE FIFTH SCHEDULE

PART II

Lessee's Further Covenants

- (1) To keep the Demised Premises and additions thereto and the Landlord's fixtures and fittings and sanitary water and central heating and gas and electrical apparatus installed in or affixed to the Demised Premises and the window glass thereof in good and substantial repair and condition
- (2) In every fifth year of the said term and in the last year of the said term howsoever determined to paint paper or decorate as appropriate in a proper and workmanlike manner all the interior parts of the Demised Premises as should be so painted papered or decorated
- (3) To make good all damage caused through the act or default of the Lessee to any part of the Property or the Landlord's fixtures and fittings therein and to any other occupier or tenant of any part of the Property and their licensees and in each case to keep the Lessor indemnified from all claims expenses and demands in respect thereof
- (4) Not to do or permit or suffer to be done any act deed matter or thing whatsoever whereby the risk or hazard of the Demised Premises or the Property being destroyed or damaged by fire shall be increased or which may require an additional premium for insuring the same or which may make void or voidable any policy for such insurance and to give notice to the Lessor of any act thing or matter done or brought on to the Demised Premises which may lead to an increase in the premiums for insuring the same and to pay any

increase in the insurance premium attributable to the Demised Premises or the Property by reason thereof

(5) Not to do or permit to be done upon or in connection with the Demised Premises anything which shall be or tend to be a nuisance annoyance disturbance or cause of damage to the Lessor or the Lessor's tenants or to any neighbouring adjoining or adjacent property or the owner or occupiers thereof and without prejudice to the generality hereof not to overload the roof terrace

(6) To observe the restrictions and regulations specified in the Ninth Schedule hereto and/or such other reasonable restrictions or regulations consistent with the terms of this Lease of which the Lessor shall give notice in writing to the Lessee

THE SIXTH SCHEDULE

Lessor's Covenants

PART I

(1) Subject to the payment by the Lessee of the rents The Maintenance Charge and the Interim Maintenance Charge herein mentioned and provided that the Lessee has complied with all the covenants agreements and obligations on his part to be performed and observed To keep in good repair and decoration and to renew and improve as and when the Lessor may from time to time in its absolute discretion consider necessary :-

(a) The structure of the Property INCLUDING :-

(i) the roofs and foundations

(ii) all the walls of the Property whether external or internal

(iii) the timbers joists and beams of the floors ceilings and roof in the Property

(iv) the chimney stacks gutters rainwater and soil pipes of the Property

(b) The Conduits in under and upon the Property not exclusively serving the Demised Premises or Other Demised Parts of the Property (except those Conduits which are the property of a public utility supply authority or of a person or company supplying television aerial rediffusion service internal telephone system or door porter system)

(c) the Common Parts

(d) the boundary walls and fences of and in the curtilage of the Property

(e) All other parts of the Property not included in the foregoing sub-Paragraphs (a) (b) (c) (d) and (e) hereof BUT EXCLUDING any part of the Property included in this demise by virtue of the Second Schedule or in the demise of any other flat or part of the Property

(2) As often as may be necessary to decorate the exterior of the Property including such exterior parts of the Demised Premises as the Lessee is prohibited from painting

(3) Subject as aforesaid and so far as practicable to keep clean and reasonably lighted the passages^{es} landings and other parts of the Property enjoyed or used by the Lessee in common with others and to tend keep clean and tidy and generally to maintain any forecourt or garden used in connection with the Property and the Demised Premises and not included in the Demised Premises or Other Demised Parts of the Property

(4) To keep the Property including the Demised Premises insured to its full reinstatement value against loss or damage by fire and

such other of the usual comprehensive risks as the Lessor may reasonably think fit to insure against and to produce to the Lessee on demand (and on payment of a proper fee for the production and copying thereof) the policy of insurance and the receipt for the last premium in respect thereof and to cause all monies received in respect of any such insurance as aforesaid to be paid out with all convenient speed in rebuilding repairing or otherwise reinstating the Property or the part thereof so destroyed or damaged but without prejudice to the Lessee's liability to pay or contribute towards the costs of such rebuilding repairing or reinstatement as hereinbefore provided PROVIDED THAT the Lessor shall be under no liability to the Lessee under this clause to make good to the Lessee any deficiency of such insurance monies by reason of the premium for the insurance of the Property having been increased on account of anything or matter done or brought thereon of which notice shall not have been given by the Lessee or the lessees of Other Demised Parts of the Property to the Lessor in accordance with Clause 4 of Part II of the Fifth Schedule or similar stipulations contained in leases of Other Demised Parts of the Property

(5) To pay and discharge any rates (including water rates) taxes duties assessments charges impositions and outgoings assessed charged and imposed upon the Property as distinct from any assessment made in respect of the Demised Premises or Other Demised Parts of the Property but including the rates (including the water rates) assessed on any flat or flats or accommodation whether in the Property or not occupied or used by any caretaker porter maintenance staff gardener cleaner or other person employed by the Lessor in

connection with the Property and also all or any other outgoings payable and expenditure properly incurred in respect of such accommodation

(6) To maintain (if and when installed by the Lessor at its discretion) any television and radio receiving aerials installed in the Property and any door telephone installed in the Property

(7) For the purpose of performing the covenants on the part of the Lessor herein contained at its reasonable discretion to employ on such terms and conditions as the Lessor shall reasonably think fit one or more maintenance staff gardeners cleaners or such other persons as the Lessor may from time to time reasonably consider necessary

PART II

1. That the Lessee paying the rent and performing and observing the Lessee's covenants hereinbefore contained and on his part to be performed and observed shall and may peaceably hold and enjoy the Demised Premises during the term hereby granted without any lawful interruption or disturbance by the Lessor or any person lawfully claiming through under or in trust for the Lessor

2. To hold the Maintenance Fund upon trust to expend the same in subsequent years pursuant to the Eighth Schedule hereto and subject thereto in trust for the Lessee and the lessees of the Other Demised Parts of the Property absolutely in the shares in which they contribute to the Maintenance Fund

3. Every lease or tenancy agreement of any part of the Property hereafter granted by the Lessor upon a long lease at a low rent and reserving a premium shall contain regulations to be observed by the

lessee thereof in similar terms to those contained in the Ninth Schedule hereof (as varied from time to time in accordance with paragraph (4) of The Seventh Schedule hereto) and also covenants of a similar nature to those contained in the Fifth Schedule hereto

4. To pay or to procure the payment of the appropriate Maintenance Charge in respect of any Other Demised Parts of the Property remaining unsold at the date hereof or let by the Lessor at a rack rent

5. Without prejudice to its right to proceed in such matters on its own initiative or otherwise the Lessor will in any event enforce all or any the covenants conditions and regulations contained in leases which may from time to time be granted of other parts of the Property upon :

- (a) receipt by the Lessor of a request in writing by the Lessee specifying which covenant condition or regulation the Lessee requires enforcing and
- (b) receipt of confirmation in writing by the Lessee that the Lessee will indemnify the Lessor against all costs and expenses incurred by the Lessor in and about the same and
- (c) receipt by the Lessor from the lessee (if requested by the Lessor) of reasonable security in respect of such costs and expenses as aforesaid provided that an allowance shall be made to the Lessee insofar as the costs of enforcement are recovered from the lessee in breach

THE SEVENTH SCHEDULE

Provisions agreed between Lessor and Lessee

- (1) That in the event of the Demised Premises being destroyed or

so damaged by any risk against which the Lessor has insured the same as hereinbefore mentioned so as to be rendered partially or wholly unfit for occupation and use and provided that the insurance effected by the Lessor shall not have been vitiated or payment of the insurance money refused in whole or in part in consequence of some act or default on the part of the Lessee his family servants or agents then the rent and interim maintenance charge hereby reserved or a fair proportion thereof shall forthwith cease to be payable until the Demised Premises shall have been restored and reinstated and again rendered fit for occupation AND in case any dispute shall arise regarding this clause the matter shall be referred to an independent surveyor to be agreed between the parties or in default of agreement to be appointed by the President for the time being of the royal institution of Chartered Surveyors as a single arbitrator in accordance with the provisions of the Arbitration Act 1950 or any statutory modification or re-enactment thereof for the time being in force

(2) The Lessor shall not be liable or responsible for any damage suffered by the Lessee or any servant agent or workman of the Lessee or any member of the Lessee's family or any guest of his through any defect in any fixtures Conduits staircase lift machinery or thing in or upon the Property or any part thereof (including the Demised Premises) or through the neglect fault or misconduct of any porter or other servant employed by the Lessor in connection with the Property

(3) In case of dispute between the Lessee and any lessee tenant or occupier of any part of the Property not hereby demised or

between the Lessee and any owner or occupier of any adjoining or neighbouring property relating to any part of the Property or such adjoining property such dispute shall be referred (if the Lessor so requires) to the Lessor's surveyors for the time being and the decision of such surveyors (as between the Lessee and any other lessee tenant or occupier of any part of the Property) shall be final and binding

(4) The Lessor may at any time or times during the term hereby granted in the interests of good estate management impose such reasonable regulations of general application regarding the Property or the Demised Premises or Other Demised Parts of the Property as it may reasonably think fit in addition to or in place of the regulations set out in the Ninth Schedule hereto (but so that any such regulations shall not conflict with this Lease or with any other covenants rules and regulations for the time being in force relating thereto) and the Lessor shall have power ~~in its absolute~~ ^{reasonable} discretion to revoke amend or add to such regulations and the regulations set out in the Ninth Schedule or any additions thereto substitutions therefor

(5) The Lessor shall have power (but shall be under no obligation not contained elsewhere in this Lease) to incur in relation to the Property the expenses set out in the Eighth Schedule

(6) (a) Any notice in writing certificate or other documents required or authorised to be given or served hereunder shall be sufficient although only addressed to the Lessee without his name or generally to the person interested without any name and notwithstanding that any person to be affected thereby is absent

under disability or unascertained and shall be sufficiently given or served if it is left at the last known place of abode or business of the Lessee or other person to or upon whom it is to be given or served or is affixed or left on the Demised Premises

(b) Any such notice in writing certificate or other document as aforesaid shall also be sufficiently given or served if it is sent by ordinary post in a prepaid letter addressed to the person to or upon whom it is to be given or served by name at the aforesaid place of abode or business and if the same is not returned through the Post Office within seven days of posting it shall be deemed to have been received or served at the time at which it would in the ordinary course have been delivered

THE EIGHTH SCHEDULE

Costs and expenses charged upon The Maintenance Fund

There shall be charged upon the Maintenance Fund such of the following costs and expenses as may from time to time be incurred in connection with the Property PROVIDED that nothing in this Schedule shall impose upon the Lessor any obligation not contained elsewhere in this Lease to provide any of the services herein mentioned it being the intention of the parties that the Lessor shall have power to incur such expenses if it considers the same are necessary or desirable in the general interests of the lessees or occupiers of the Property or in the interests of good estate management the said costs and expenses are :-

- (1) The cost incurred by the Lessor in complying with its obligations in Part I of the Sixth Schedule
- (2) The cost of any additional insurance effected in connection

with the Property or any part thereof

(3) The cost of covering the floors of and of cleaning decorating lighting and heating the passages landings staircases and other parts of the property enjoyed or used by the Lessee in common with others and of keeping the other parts of the Property used by the Lessee in common as aforesaid and not otherwise specifically referred to in this Schedule in good structural and decorative repair and condition

(4) All rates charges assessments and other outgoings (if any) payable by the Lessor in respect of the common parts of the Property

(5) The amount which the Lessor shall be called upon to pay as a contribution towards the expense of making repairing maintaining rebuilding and cleansing all ways roads pavements sewers drains pipes watercourses party walls party structures party fences walls or other conveniences which may belong to or be used for the benefit of the Property in common with other premises near or adjoining thereto

(6) The cost of maintaining hiring repairing and renewing any television and radio receiving aerials installed in the Property and used or capable of being used by the Lessee in common with the other occupiers thereof

(7) The cost of maintaining hiring repairing or renewing any internal telephone system or door porter system installed at the Property

(8) The cost of complying with all statutory requirements regulations or requirements of any competent local or other authority relating to the Common Parts

(9) The cost of employing a Managing Agent or Surveyor to manage the Property and to collect the rents and maintenance charges in respect of the Demised Premises and the Other Demised Parts of the Property and to carry out such other duties as may from time to time be assigned to him by the Lessor or are otherwise imposed on him by the provisions of this Lease or by any statute or statutes for the time being in force

(10) The cost of maintaining any garden comprised in the Common Parts and keeping the same properly cultivated in good order and condition and of carrying out such improvements thereto as may be desirable

(11) All legal and other proper costs incurred by the Lessor:

- (a) in the running and management of the Property and in the enforcement of the covenants on the part of the Lessee and of the lessees of Other Demised Parts of the Property and the conditions and regulations contained in this Lease and the leases granted of the Other Demised Parts of the Property insofar as the costs of enforcement are not recovered from the lessee in breach and
- (b) in making such applications and representations and taking such action as the Lessor shall reasonably think necessary in respect of any notice or order or proposal for a notice or order served under any statute or order regulation or byelaw on the Lessee or any underlessee of the Demised Premises or on any lessee or underlessee of any Other Demised Parts of the Property or on the Lessor in respect of the Property or all or any parts thereof