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HM Courts  
& Tribunals  
Service



Residential  
Property  
TRIBUNAL SERVICE

**LONDON RENT ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION  
UNDER SECTIONS 27A & 20C OF THE LANDLORD AND TENANT ACT 1985**

**Case Reference:** LON/00BE/LSC/2012/0437

**Premises:** Flat E, 2-8 Shenley Road, London SE5 8NN

**Applicants:** McAnon Limited (Landlord)

**Represented by:** Mr J. Naylor, Partner; Crabtree Law, Solicitors

**Also Present:** Mr T. Langton, MIRPM AssocRICS; Crabtree Property Management LLP

**Respondent:** Ms J. Common, (Flat E) Leaseholder

**Represented by:** In person

**Also Present:** Mr D. Ware

**Tribunal:** Mr L. W. G. Robson LLB(Hons)  
Mr J. R. Humphrys FRICS  
Mr A. D. Ring

**Hearing Dates:** 1<sup>st</sup> and 2<sup>nd</sup> November 2012

**Date of Decision:** 11th December 2012

**Decisions of the Tribunal**

- (1) Service Charges 2010 (Final);  
Management Fees - £1,680 reduced to £1,000  
Health and Safety - £505.04 as demanded

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Repairs and Maintenance £297.01 as demanded  
Accountancy - £300 (Agreed)  
Transaction Charges £5.60 – as demanded (de minimis)  
Bank Interest – (0.31) (Agreed)  
Restricted Reserve Fund - £1,000 accepted with conditions, see below  
Unrestricted Reserve - £702.66 if agreed as advance service charge for relevant year, allowed

- (2) Service Charges 2011 (Estimated) (to 19.8.2011 per court claim)  
Management – £1,770 reduced to £1,000  
Insurance Excess - £250 reduced to Nil  
Health & Safety Reports - £436 reduced to Nil  
Repairs and Maintenance - £750 reduced to £436  
Transaction charges - £5 as demanded  
Accountancy - £300 (Agreed)
- (3) In accordance with concession made by the Applicant at the hearing that the Lease did not provide for interest charges, thus such charges already made should be reversed.
- (4) The Tribunal makes the other determinations as set out under the various headings in this Decision. Note that the sums determined above relate to the global service charge for the building and should be apportioned appropriately to the Respondent' account. This decision binds only the parties to it, but does not preclude applications relating to other leaseholders.
- (5) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 limiting the landlord's costs chargeable to the Respondent under the service charge or otherwise and connected with this application to NIL.
- (6) This matter is now referred back to the Central London County Court to deal with Court costs, fees and any other outstanding matters.

### **The application**

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of service charges payable by the Applicant in respect of the Service charge year commencing on 1<sup>st</sup> January 2010, and estimated service charges for the service charge year commencing on 1<sup>st</sup> January 2011 (as demanded in the Court claim up to 19<sup>th</sup> August 2011) under the terms of a lease (the Lease) dated 22<sup>nd</sup> August 2002, a copy of which is attached hereto as Appendix 2. The amount demanded for service charges in the Court claim was £1,509.97.
2. Proceedings were originally issued in the Lambeth County Court under claim no. 1UD80286. The claim was then transferred to this Tribunal, by order of the Court dated 23<sup>rd</sup> June 2012.

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3. The relevant legal provisions are set out in the Appendix 1 to this decision.

### **Inspection**

4. The Tribunal inspected the property on the second morning of the hearing in the company of Mr Langton, the Respondent, and Mr Ware. The property is a rather plain three storey block of flats of brick construction under a pitched tiled roof built about 1960. To the rear, at right angles to the main building, there was a two storey storage block with a connecting walkway at 1<sup>st</sup> floor level to the main building. The Tribunal was informed that the block had originally been built to house police officers and the block to the rear had been used for storage of equipment and as dog kennels. The block appeared to be double glazed throughout. The block was situated on a busy local road which was heavily parked. There was a small front garden used communally and covered in pea shingle, although the weeds were growing through it and there was a lot of rubbish lying about. The boundary railings needed redecoration. The Tribunal noted that the first floor balconies showed signs of possible structural deterioration. The property had several old settlement cracks at the front which had apparently been repaired in the past. At high level there were cast iron "OG" gutters. The Tribunal noted the gutter dripping directly onto Mr Ware's balcony where we noted deterioration. It was not possible to decide if the soffit boards were made of asbestos or not. The Tribunal noted an exterior light above the passageway to the rear of the building, another to light the storage area, and three other exterior lights along the 1<sup>st</sup> floor walkway to the upper flats. None appeared to be working, although they were not tested in our presence. The rear garden was laid mostly to grass. There were signs of a previous construction over the lawn at one end, and very large laurel tree grew nearby. The tree showed signs of minor lopping within the last few years. The lawn itself, although the grass was not long, looked untidy and neglected. The 2 storey storage lockers were very untidy and mainly full of rubbish, with some spilling onto the areas round about. Near the stairs up to the rear walkway there was a deciduous tree with branches which showed signs of lopping in the last few years. The safety railings on the walkway were sound, but there was considerable play at the top of the stairs, and they needed cyclical repair and redecoration. The rest of the building appeared to need cyclical repairs also, and looked neglected.

### **Hearing**

5. The parties made oral submissions, following their written submissions. The Applicant's written submissions lacked detail, and the Respondent's written submissions also tended to lack specific complaints capable of being addressed by Section 27A. The Tribunal identified the items in dispute and the boundaries of its jurisdiction with the parties before moving on. The Tribunal has dealt with the issues by subject in its decision, outlining the parties' respective arguments on the point, and then its decision.

## Management Charges

6. The Applicant submitted that its charges were reasonable for this type of property. They were of a reasonable standard and reasonable in amount in accordance with the case of Forcelux v Sweetman. It provided a comprehensive service which was comparable with other agents in the local area which charged £3-400 per unit. The Crabtree unit charge for 2010 was £286, and for 2011 it had been increased by 3% to £295 excluding VAT. The main problem with this building was that arrears, particularly those of the Respondent, were impeding timely execution works on the property.
7. The Respondent submitted that the management was poor, distant and dismissive. It was only worth 20% of the amount charged. Charges were made without supplying sufficient information, particularly in the case of inspections and reports. The lessees had been given notice of a possible sighting of asbestos, but without details, or what work was proposed to deal with it. This had alarmed the lessees greatly. Works which were needed were not being done, particularly external communal lighting.
8. The Tribunal considered the evidence and submissions. It considered that the service provided was administration of the block, but not management. [Like many large organisations,] the managing agents appeared to have all the right support staff and equipment in place, but there seemed to be no directing mind or leadership to drive them forward. Mr Langton's role appeared deskbound and reactive, rather than active. For example, no management plan had been decided or consulted upon after 3 years. Such a plan should have been consulted upon and published within a very few months of taking on the management. Mr Langton gave evidence that he would have to instruct a third party to advise before drawing up a plan. In the Tribunal's view, this indicated that either he was not sufficiently qualified for the role, or he was being unduly constrained by his organisation. Also, the external lighting was not working, and the evidence from the Respondent and Mr Ware (whom the Tribunal found very credible) was that the lights had not worked for some time. The Tribunal's inspection suggested that the lights had not been working for some time, leaving the rear 1<sup>st</sup> Floor walkway (which gave access to three flats) in darkness. Mr Langton described a periodic inspection system carried out by his staff which had only recently picked up this problem, but it seemed that the only quality control of that system was complaints from tenants. This seemed unsatisfactory. Mr Langton also seemed unable to describe a satisfactory system of consultation with the lessees, which is a pre-requisite to successful and responsive management. He had never met the Respondent until the hearing. There was a conflict of evidence between the parties as to whether his appointment had been notified to them, but apparently no regular consultation meetings were being held.
9. The Tribunal concluded that the agents appeared to be charging a full fee, but not providing a manager who was able to take independent decisions. As a result repairs and maintenance were drifting. Lack of funds was not a sufficient reason for lack of a management plan, or for failure to do small but important

repairs. For example, with regard to the external passage, stairs and walkway, the question of lighting directly relates to Health and Safety issues.

10. The Tribunal considered that a fee of £250 – £300 per unit was appropriate for active management, carrying out the duties specified in Para. 2.4 of the RICS Service Charge Residential Management Code, 2<sup>nd</sup> Edition, but the service actually given was far short of this and was only worth £200 per unit. The Tribunal therefore decided that a reasonable charge for the management in 2010 and 2011 did not exceed £1,000, i.e. £200 per unit. While the 2011 year was still an estimate, (which itself surprised the Tribunal nearly 12 months after the end of the relevant year) little appeared to have changed. £1,000 seemed an appropriate charge for the work done in that year also.

#### Health and Safety/Asbestos Management

11. The Applicant submitted that its contractor, 4Site had carried out an initial Health and Safety survey in October 2009, noting the possible presence of asbestos at high level in the soffits. Later, in September 2010, 4Site had carried out another survey. The report by Peter Scott Associates was not a service charge item and not charged for. The two reports on the service charge totalled £505.04. There was some discussion at the hearing as to the accuracy of the reports and the lack of action taken as a result, (e.g. asbestos and possibly communal water tanks), but the Applicant considered that while some minor defects could be argued, these did not invalidate the reports. It also argued that it had not received requests for copies.
12. The Respondent submitted that she had seen no reports, despite requests, until the documents appeared at the hearing. She doubted whether the inspectors concerned could have had sufficient access to carry out the work which they claimed. There was no access to the rear of the building without a key, and the managing agents had only obtained a key in May of the year following their appointment. Furthermore the information given by the agents in [2010] that the property had asbestos was alarming news, which had not been explained by the agents despite request. This had caused considerable distress. She submitted that the reports had either not been done, or were defective. She considered that she was insufficiently qualified to comment on the actual sums demanded.
13. The Tribunal considered the evidence and submissions. It concluded that while there might be some defects in the reports, they were fit for purpose, and the cost was not unreasonable. The Tribunal therefore allowed these costs at £505.04, as demanded. In passing, the Tribunal notes its disapproval of withholding reports from lessees. They pay for them through the service charge, and there was evidence of requests for copies in the bundle, but these were only forthcoming at a very late stage. This does not inspire confidence in the management, or facilitate agreement. The Tribunal also noted that reports are commissioned despite lack of funds (see paragraph 9 above) but little or no active management follows from the conclusions of the reports leading to

recommendations to the landlords or leaseholders. Thus our conclusion in paragraph 10 above.

14. Relating to the 2011 estimate, the Applicant confirmed at the hearing that no reports had been carried out in that year, thus the Tribunal reduced the figure demanded to Nil, as it was now clear that no charge could be made in the 2011 final accounts for this item.

#### Repairs and Maintenance

15. The Applicant submitted that although only £297.01 had been demanded in the final accounts for 2010, invoices totalling £811.66 had been paid for this item in 2010, being the roof works by Brooker and Sons for £220, repairs to external lighting by Aviss for £371.66, and replacement of a swan neck in one rainwater downspout by L. Harrison for £220. When Crabtree had taken over, there had been insufficient in the account to fund urgent work, so the Applicant had made a loan to the account to fund urgent work. This loan had not been taken into consideration when drawing up the accounts, and could not now be collected. On this basis, the cost demanded was certainly reasonable.
16. The Respondent did not dispute the invoice of Mr Brooker, as it had been the Respondent who had put him forward for the work. The invoice of Aviss was also not disputed, as she had seen the electricians at work. However the work had been done in late 2009, and more work was required on the lighting, but not done. Some work on the gutters had been done, but it was not effective and they still leaked. This point was disputed by the parties at length. The Respondent queried whether local contractors would have been cheaper.
17. The Tribunal considered the submissions and evidence for 2010. Even based only on the items agreed by the Respondent within the period, the agreed costs came to £591.66. The Tribunal did not need to evaluate the evidence on the effectiveness of the swan neck works, but notes there were signs of old water staining on the wall below and dampness on the balcony near the middle of the building at the front. This area needs watching. The Tribunal did not accept that the submission that contractors local to SE5 would be cheaper for two reasons. Firstly it is well established law that a landlord is not required to seek out the lowest charge to comply with his obligations, but only to seek out a reasonable charge. Secondly, in a competitive market a contractor from further afield with lower overheads may well offer a lower price. Thus the Tribunal found the demanded sum of £297.01 was reasonable, on the assumption that no further demand is made for work done in the period.
18. For 2011 the Applicant submitted that rubbish removal by S. Wilson for £160, and garden maintenance for E. Montagnino for £276 had been invoiced, totalling £436. Despite this, the estimate of £750 was not unreasonable when made.

19. The Respondent disputed that S. Wilson or E. Montagnino had done the work charged for. She considered that she and Mr Ware had cleared the rubbish after Mr Wilson's visit, and the work done by Mr Montagnino was a significant overcharge for the work actually invoiced. Any maintenance done in the rear garden was now being done by herself and Mr Ware. The Applicant disputed this and invited the Tribunal to accept the invoices at face value.
20. In the end, the Tribunal reluctantly decided to accept the invoices for 2011 at face value on this occasion, on the basis that there was evidence of the contractors attending, but suggests that disputes over this kind of work could be avoided in future if the lessees were informed of impending visits, and able to report back on performance. Since the Respondent is regularly present, the contractors could be asked to let her know of their arrival and departure. While accepting that the estimate when originally made was given in good faith, the Tribunal decided not to allow the estimate of £750 to stand, as there was now strong evidence that no further charge should be made for this item. A reasonable estimate for repairs and maintenance in 2011 was thus the actual expenditure of £436.

#### Transaction Charges

21. While these were not specifically disputed by the Respondent, they seemed to be disbursements connected with the management charge. The Tribunal noted the Applicant's evidence that these charges were not a specific charge made by the banks concerned, but an estimate based on the overall charges made to the Applicant's manager for servicing client accounts. Thus it was not a charge which could be specifically traced. Many managers consider such charges as an office overhead, particularly if the cost can be offset by significant holding balances in accounts attracting little or no interest. However this to some extent depends upon accounting requirements, and the individual arrangement negotiated by a manager with its bank. The Tribunal allowed the charge of £5.60 for 2010 on the basis that it is minimal, and the estimated charge of £5.00 for 2011 on the same basis.

#### "Unrestricted Reserve Fund" and "Restricted Reserve Fund"

22. These items were given slightly unusual descriptions in the accounts, but were explained in the bundle as for holding payments of estimated service charges for a current service charge year, as opposed to the "Restricted Reserve Fund", which is a general reserve fund for future expenditure. The Respondent did not challenge either fund specifically, and the Tribunal accepted the Applicant's submission at the start of the hearing that the Lease on a correct reading of paragraphs 10 and 11 of the 4<sup>th</sup> Schedule, allowed it to collect a general reserve fund (the Restricted Reserve Fund), although the Lease was in fact ambiguous on the point.
23. The Applicant in its statement of case submitted that it was entitled by the Lease to collect estimated demands for service charge pursuant to

Paragraph 11 of the Fourth Schedule. (A copy is appended to this decision as Appendix 2). This was not seriously challenged by the Respondent.

24. The Tribunal agreed that paragraph 11 explicitly provided for payments of estimated service charges for current service charge years.
25. At the hearing, in answer to questions from the Tribunal, the Applicant further submitted that the "Restricted Reserve Fund" was for "cyclical maintenance or whatever", referring also to the agents' letter of 22<sup>nd</sup> December 2009 at p.45 of the bundle which the Tribunal interpreted as meaning for any purpose connected with the property. However after 3 years the Applicant's agent was unable to quantify the cost of the work proposed. Since the fund was not specifically challenged the Tribunal has not examined it in detail, but it is not normally correct for a trustee to collect a fund for unspecified work to be spent at an unspecified time in the future. If payments to the fund were challenged at some future date, without identifying the work and having a reasonable estimate of the amount to be collected, and a projected date for the works, a Tribunal might well disallow it.
26. Subject to the comments above, the Tribunal decided to allow the transfer of the sum of £702.66 to the Restricted Reserve Fund, and for the collection of £1,000 into the Unrestricted Reserve Fund.

#### Estimated Insurance Excess for 2011

27. The Applicant submitted that this was a proper charge because if there was an insurance claim, a £250 excess would be payable. In reply to questions the Applicant agreed that there had been no insurance claim in the relevant year, or a significant history of claims.
28. The Tribunal decided that a demand relating to an unspecified future insurance claim was not only novel, but too speculative to be allowed. The demand for £250 was reduced to Nil.

#### Application under s.20C

29. The Respondent applied for an order under section 20C of the 1985 Act.
30. The Applicant submitted that the real cause of the problems in this case was the Respondent's refusal to pay, causing significant arrears in the service charge account. The Applicant's agent had tried to meet and negotiate a settlement, but the Respondent had not co-operated, preferring a hearing by the Tribunal. The Applicant thus opposed the Section 20C application.



31. Having heard the submissions from the parties and taking into account the determinations above, the Tribunal determined to make an order under Section 20C restricting the Landlord's costs of the application chargeable to the Respondent's service charge to NIL. In its view, the Applicant had not communicated well with the lessees, and should generally have been more active in attempting to resolve this dispute. The Landlord had only offered to meet after proceedings were issued. The Tribunal's comments about management above are noted again. While the Respondent had made some mistakes in her approach, it was for the professional manager to drive the management forward, and be pro-active with lessees, especially lessees who were resident and prepared to give up their own time for the benefit of the building as a whole.

Signed: Lancelot Robson

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

Dated: 11th December 2012

### **Appendix 1 - relevant legislation**

#### **Landlord and Tenant Act 1985**

##### **Section 18**

- (1) In the following provisions of this Act "service charge" means an amount payable by a Tenant of a dwelling as part of or in addition to the rent -
- (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the Landlord's costs of management, and
  - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the Landlord, or a superior Landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose -
- (a) "costs" includes overheads, and
  - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

##### **Section 19**

- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -

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- (a) only to the extent that they are reasonably incurred, and
  - (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;
- and the amount payable shall be limited accordingly.
- (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

### **Section 27A**

- (1) An application may be made to a Leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to -
- (a) the person by whom it is payable,
  - (b) the person to whom it is payable,
  - (c) the amount which is payable,
  - (d) the date at or by which it is payable, and
  - (e) the manner in which it is payable.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to a Leasehold valuation tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
- (a) the person by whom it would be payable,
  - (b) the person to whom it would be payable,
  - (c) the amount which would be payable,
  - (d) the date at or by which it would be payable, and
  - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which -
- (a) has been agreed or admitted by the Tenant,
  - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the Tenant is a party,
  - (c) has been the subject of determination by a court, or
  - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the Tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

### **Section 20C**

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings

before a court, residential property tribunal or leasehold valuation tribunal, or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.

- (2) The application shall be made—
  - (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
  - (aa) in the case of proceedings before a residential property tribunal, to a leasehold valuation tribunal;
  - (b) in the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation tribunal;
  - (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
  - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.
  
- (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

## **APPENDIX 2**

Lease dated 22<sup>nd</sup> August 2002 – See attached

£1995  
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7/11



*certified True Copy of the Original*  
*Wykeham Hooper & Co*  
*10.12.02* B497/6.

H.M. LAND REGISTRY

INLAND REVENUE  
PRODUCED 20  
- 7. NOV 2002.  
FINANCE ACT 1931  
NEWCASTLE

LAND REGISTRATION ACTS 1925 to 1986

LEASE OF PART

COUNTY AND DISTRICT  
OR LONDON BOROUGH

: LONDON BOROUGH OF SOUTHWARK

TITLE NUMBER

: LN83685

PROPERTY

: FLAT E, 2 SHENLEY ROAD LONDON SE5



THIS LEASE is made the 22<sup>nd</sup> day of August

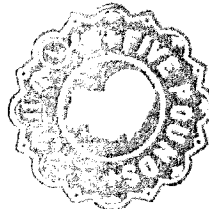
Two Thousand and Two BETWEEN H & A PROPERTY (INVESTMENTS) LIMITED

of 9 Camberwell Church Street London SE5 4TR (hereinafter called "the Landlord" which expression where the context so admits includes the person for the time being entitled to the reversion expectant on the determination of the Lease hereby created) of the one part and TIM HUGHES and <sup>E.H.</sup> KATHERINE HUNTER both of 199C Camberwell New Road London SE5 0TG (hereinafter called "the Tenant" which expression where the context so admits includes his successors in title to the term of years hereby created) of the other part

WHEREAS the Landlord is registered as proprietor with Absolute Freehold Title of the property containing 5 flats (hereinafter called "the Block") known as 2 - 8 (even numbers) Shenley Road London SE5 under the Title Number LN83685

NOW THIS DEED made in consideration of the sum of ONE HUNDRED AND NINETY NINE THOUSAND FIVE HUNDRED POUNDS (£199,500) now paid by the Tenant to the

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Landlord (the receipt whereof the Landlord hereby acknowledges) and of the rents hereby reserved and the covenants on the part of the Tenant and the conditions hereinafter contained

**WITNESSETH** as follows :

1. **IN** this Deed the following expressions have the following respective meanings :-

"the Demised Premises" shall mean the Flat described in the First Schedule hereto together with the appurtenant rights set forth in the Second Schedule hereto but excepting and reserving and subject to the rights set forth in the Third Schedule hereto

"the Retained Parts" shall mean all such parts of the Block as are for the time being not comprised or intended in due course to be comprised in any lease of a flat granted or to be granted by the Landlord (or occupied by the Landlord) and (without prejudice to the generality of the foregoing) such parts include:

(i) the main structure the foundations the roof and the exterior faces of external boundary and other walls of the Block

(ii) the entrance entrance-hall stairways passages landings gardens grounds and other parts of the Block used in common by all or any of the lessees of flats

(iii) all water-tanks pipes ducts sewers drains vents flues and wires throughout the Block and serving all or any two or more of the said flats

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(iv) the paths roads ways and grounds (if any) leading to and from the Block

2. **THE LANDLORD HEREBY DEMISES** unto the Tenant **ALL** the Demised Premises as hereinbefore defined **TO HOLD** the same unto the Tenant for the term of **125 YEARS** from the 25 day of March Two Thousand and Two **YIELDING AND PAYING** to the Landlord therefor during the first **25 YEARS** the sum of **ONE HUNDRED POUNDS (£100)** per year during the next **25 YEARS** the sum of **TWO HUNDRED POUNDS (£200)** per year during the next **25 YEARS** the sum of **FOUR HUNDRED POUNDS (£400)** per year during the next **25 YEARS** the sum of **EIGHT HUNDRED POUNDS (£800)** per year and during the residue of the term the sum of **ONE THOUSAND SIX HUNDRED POUNDS (£1,600)** per year payable yearly in advance on the First day of January in each year without any deduction the first of such payments being a proportionate payment to be made on the execution hereof

3. **THE TENANT HEREBY COVENANTS** with the Landlord to perform and observe the obligations set out in the Fourth Schedule hereto

4. **THE TENANT FURTHER COVENANTS** with the Landlord and with the tenants of other flats in the Block to perform and observe the stipulations set out in the Fifth Schedule hereto to the intent that such stipulations shall be mutually enforceable between the Tenant and the said tenants of other flats

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5. **THE LANDLORD HEREBY COVENANTS** with the Tenant to observe and perform the obligations set out in the Sixth Schedule hereto (subject to the payment by the Tenant of the Service Charge hereinafter referred to)

6. **IF** the rent hereby reserved or any part thereof shall at any time be in arrear and unpaid for twenty one days after becoming due (whether or not legally or formally demanded) or if the Tenant shall fail or neglect to perform any of the covenants on his part herein contained then and in any such case it shall be lawful for the Landlord or any person authorised by the Landlord in that behalf to re-enter the Demised Premises or any part thereof in the name of the whole and thereupon the term hereby created shall cease and determine but without prejudice to any rights of action or remedy of the Landlord in respect of any antecedent breach of any of the said covenants

7. **IF** and whenever and for so long as the Tenant shall for the time being consist of two or more persons holding the said term as joint tenants at law (whether their entitlement in equity is joint or in common) then :

(a) all liabilities and obligations of the Tenant hereunder shall be joint and several and

(b) the said persons shall hold the Demised Premises for the term hereby created upon the statutory trusts for sale and otherwise declared by the Law of Property Act 1925 and pending sale shall have the same full and unrestricted power (but always subject and without prejudice to the covenants on the part of the Tenant herein contained) of dealing with or

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disposing of the Demised Premises for any purpose and in any manner in all respects as a sole absolute owner

8. **IT IS HEREBY AGREED AND DECLARED** that the masculine gender shall include the feminine gender and the singular shall include the plural and vice versa where the context so admits

9. **IT IS HEREBY CERTIFIED** that the transaction hereby effected does not form part of a larger transaction or series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration (other than rent) exceeds **£250,000**

10. It is not intended that a third party should have the right to enforce a provision of this Lease under the Contracts (Rights of Third Parties) Act 1999

**IN WITNESS** whereof the parties hereto have executed these presents the day and year first above written

#### **THE FIRST SCHEDULE**

##### **(Description of the Demised Premises)**

**FIRSTLY** the Flat numbered E on the First Floor of the Block **INCLUDING** (for the purposes of obligation as well as grant) :

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(a) all cisterns tanks sewers drains pipes and wires which serve only the Demised Premises and no other flat

(b) the entrance door and the glass in the windows of the Demised Premises

(c) the interior faces of such parts of the external walls of the Block as bound the Demised Premises (the walls floors and ceilings dividing the Demised Premises from any adjoining flat or other part of the Block being deemed to be party structures severed medially and being repairable as such)

All of which Demised Premises are for the purpose of identification edged pink on plan number 1 annexed hereto **BUT EXCLUDING** all such other parts of the main structure of the Block as contain the Demised Premises and

**SECONDLY** the storage area shown coloured pink on plan number 2 annexed hereto

## **THE SECOND SCHEDULE**

### **(Rights appurtenant to the Demised Premises)**

1. The right in common with the Landlord and such tenants and occupiers of the other flats as aforesaid and all other persons having the like right :

(a) to use for the purposes of access to and egress from the Demised Premises such entrance-halls stairways passages landings balconies and other parts of the Block as serve or

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afford access to the Demised Premises shown edged brown on plan number 2 annexed hereto and

(b) to pass and re-pass over and along the paths roads ways and ground leading to and from the Block shown edged brown on plan number 2 annexed hereto

(c) to use the amenity garden space shown edged green on plan number 2 annexed hereto for recreational purposes only

2. The right of passage and running of soil water gas and electricity from and to the Demised Premises through the sewers drains pipes and wires situated in or under any other flat or any other part of the Block

3. All right of support and protection and other easements or quasi-easements and all rights and benefits of a similar nature now enjoyed or intended to be enjoyed by the Demised Premises

4. The benefit of any covenants entered or to be entered into by the tenants of other flats with the Landlord to perform and observe such and the like stipulations as are set out in the Fifth Schedule to this Lease

5. Such rights of access to and entry upon the Retained Parts and any other flat as are necessary for the due performance of the Tenant's obligations under this Lease or for the purpose of carrying out repairs to the Demised Premises the Retained Parts and any other flat

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### **THE THIRD SCHEDULE**

**(Rights to which the Demised Premises are subject  
or as are excepted or reserved)**

1. All such rights corresponding to those mentioned in paragraphs 2 and 3 of the foregoing Second Schedule as are enjoyed or intended to be enjoyed as against the Demised Premises by any other flat
  
2. Such rights of access to and entry upon the Demised Premises (corresponding to those mentioned in paragraph 5 of the said Second Schedule) as are necessary for the due performance by the Landlord of the Landlord's obligations or by the tenants for the time being of the other flats comprised in the Block of their obligations under the covenants on their respective parts contained in the leases of the other flats comprised in the Block

### **THE FOURTH SCHEDULE**

**(Tenant's Covenants)**

1. To pay the reserved rent on the dates and in manner aforesaid
  
2. To pay and discharge all existing and future rates taxes assessments and outgoings of whatever kind now or to be hereafter during the said term imposed or charged on the demised premises or on the Landlord or the Tenant or any owner or occupier in respect thereof

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3. (a) To keep the Demised Premises and all parts thereof and all fixtures and fittings therein and all additions thereto in good and tenantable repair and decorative condition throughout the said term (including the renewal and replacement of all worn or damaged parts) and so to yield up at the expiration or sooner determination of the said term and it is hereby declared and agreed that there is included in this covenant as repairable by the Tenant (without prejudice to the generality of the foregoing) the doors the windows (including window frames and glazing)

(b) Jointly with the owner of any adjoining flat in the Block to keep the walls floors and ceiling dividing the Demised Premises from any adjoining flat or other part of the Block in good and tenantable repair and condition and in the event of any dispute concerning such matters the same shall be decided in the absolute discretion of the Landlord whose decision shall be final and binding and the Tenant further covenants to carry out all such works and do all such things as may be required by the Landlord in the event of such matters having been referred to the Landlord

4. In every seventh year of the said term to paint with two coats of good quality paint in a workmanlike manner all the wood iron and other parts of the Demised Premises which are usually or ought to be painted and to varnish stop whiten and colour all such parts as are usually or ought to be so treated and when necessary to re-paper the parts (if any) now papered with suitable paper of as good quality as that now in use

5. To allow the Landlord and agents of the Landlord to enter the Demised Premises at any reasonable time for the purpose of inspecting the state of repair and condition thereof and within

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a reasonable time to remedy any default under paragraph 4 of this Schedule which may be specified in any notice served by the Landlord and in the event of failure to remedy any such default as aforesaid to allow such respective agents as aforesaid to enter for the purpose of carrying out all necessary work of repair or decoration and to pay the cost thereof to the Landlord on demand

6. Not without the previous written licence of the Landlord to make any alteration in the Demised Premises or to the external appearance thereof and to make only such alterations as are incorporated in the plans and specifications so licenced

7. Before carrying out any repairs or other works required or permitted to be carried out hereunder and necessitating entry to any other flat to give reasonable previous notice in writing to the tenant of that flat and to carry out such repairs or works with the minimum of damage and inconvenience to the tenant or occupier of such other flat and to make good all damage done

8. (i) Not to assign transfer let or part with possession of part only of the Demised Premises

(ii) Not to assign or underlet the whole of the Demised Premises without first obtaining a Deed in a form approved by the Landlord's Solicitors such approval not to be unreasonably withheld or delayed (and to pay the Landlord's Solicitors' reasonable charges) containing a covenant by the intended assignee or underlessee with the Landlord to pay the rent and Service Charge reserved by this Lease and to comply with all the covenants and conditions of this Lease

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(iii) Within one month after the date of every assignment death grant of probate or administration assent transfer mortgage charge sub-lease or other event or document relating to the term hereby granted to give notice thereof in writing to the Landlord and in the case of a document produce it to the Solicitors for the time being of the Landlord for registration and to pay the current registration fee of not less than Thirty Pounds plus Value Added Tax at the appropriate rate for each such registration of a document

9. To use the Demised Premises as a single private dwelling only

10. To keep the Landlord indemnified against a proportionate part of all costs charges and expenses which the Landlord shall incur in connection with the Block and in or in connection with the management of the Block whether in carrying out the obligations set out in the Sixth Schedule hereto or in doing any other works or things for the improvement of the Block (including by way of example only the fees of the managing agent or agents (if any) from time to time appointed by the Landlord to collect rents and/or manage the Block) such proportion to be calculated as a ratio of the floor areas of the Demised Premises to the aggregate floor areas of all the flats comprised in the Block

11. To pay to the Landlord on demand in each half-year such sum as the Landlord shall estimate to be half of the amount prospectively payable by the Tenant under the last preceding paragraph (such sum being taken into account and credited against the amount so payable) such sums being payable on the first day of January and the first day of July in each year the first payment to be made on the execution hereof and to be **TWO HUNDRED AND FIFTY**

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POUNDS and to cover the period from the date hereof until the First day of January next  
**PROVIDED THAT** until such time as the said expenses shall be calculated or estimated the  
said half-yearly contribution shall be the said sum **PROVIDED FURTHER** that any sum  
received by the Landlord on the execution hereof or from time to time on account of Service  
Charge payable for a period after the date upon which such payment or payments is or are to be  
made shall be deemed to be held by the Landlord as bare trustee for the Tenant upon trust to  
utilise such sum towards the expenses to be incurred by the Landlord as aforesaid **PROVIDED**  
**FURTHER** that any sum due from the Tenant to the Landlord under the terms of this Clause  
shall be deemed to be sums due by way of additional rent and shall be recoverable by the  
Landlord as such **PROVIDED FURTHER** that in this Schedule the expression "all costs  
charges and expenses which the Landlord shall incur" shall include not only those costs charges  
and expenses which the Landlord shall have actually incurred or made during the year in  
question but also such other reasonable part of all such costs charges expenses and other  
expenditure hereinbefore described which are of a periodically recurring nature (whether  
recurring by regular or irregular periods) whenever disbursed incurred or made and whether  
prior to the commencement of the term hereby granted or otherwise including a sum or sums of  
money by way of reasonable provision for anticipated expenditure in respect thereof as the  
Landlord may in its absolute discretion allocate to the year in question as being fair and  
reasonable in all the circumstances

12. Within twenty-one days after receipt of a copy of the certification provided for by  
paragraph 11 of the Sixth Schedule hereto to pay to the Landlord the net amount (if any)  
appearing by such notice to be due to the Landlord from the Tenant

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13. To comply with all covenants provisions and other matters to which the title to the reversion immediately expectant upon the term of years hereby created may be subject (if any) and not to do any act or thing or permit any act or thing to be done which would cause the Landlord to be in breach of any obligation in relation to the Demised Premises and/or the Block and in this connection this demise shall be deemed to be subject to all exceptions reservations rights and other matters whatsoever which may now or at any time hereafter affect the title to the Demised Premises or any part or parts thereof or to which the title to the reversion whether immediate or not expectant upon the term of years hereby created may now or at any time hereafter be subject

14. To keep any garden area included in this demise neat and tidy and well planted and to keep all boundary walls and fences thereof in good and substantial repair and condition

15. (a) To pay to the Landlord all costs charges and expenses (including legal costs and fees payable to a Surveyor) which may be incurred by the Landlord in or in contemplation of any proceedings under Sections 146 and 147 of the Law of Property Act 1925 notwithstanding forfeiture may be avoided otherwise than by relief granted by the Court

(b) To pay all proper and reasonable expenses including Solicitors' costs and Surveyors' fees incurred by the Landlord of and incidental to the service of all notices and schedules relating to wants of repair to the Demised Premises whether the same be served during or after the expiration or sooner determination of the term hereby granted

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## THE FIFTH SCHEDULE

### (Tenant's Covenants)

1. Not to do or permit or suffer to be done in the Demised Premises or in the Retained Parts anything which may cause damage or inconvenience or be or become a nuisance or annoyance to the Landlord or to the lessee or occupier of any other flat or to any person lawfully using the Retained Parts or to the neighbourhood generally (and the generality of this paragraph shall not be restricted by the remaining paragraphs of this Schedule)
2. Not to use the Demised Premises for any illegal or immoral purpose or for the purposes of any trade or business but to use it only for the purpose of private residential occupation
3. Not to block or obstruct any landing passage stairway entrance-hall paths or steps forming part of the Retained Parts
4. Not to deposit any refuse rubbish or litter elsewhere than in the communal refuse-bins (if any) provided in the grounds of the Block or such other place (if any) as may be stipulated by the Landlord
5. Not to use any radio television set hi-fi system or musical instrument or to sing in such a way as to become a nuisance or annoyance to the tenant or occupier of any other flat in the Block
6. To clean the windows of the Demised Premises whenever necessary

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7. Not to do or permit or suffer to be done in the Demised Premises anything likely or calculated to render any insurance for the time being effected on or on the contents of the Block or any part thereof (including the Demised Premises itself) void or voidable or to cause the rate of premium on any such insurance to be increased
8. To ensure that all guests and other invitees or licensees of the Tenant while in the Block conform to the stipulations and regulations contained or referred to in this Schedule
9. Subject (except in case of emergency) to reasonable previous notice to permit the respective agents of the Landlord and the tenants of other flats to enter the Demised Premises so far as may be necessary for the due discharge of its or their respective obligations hereunder or under such other tenants' leases respectively
10. To comply with all regulations which the Landlord may from time to time make and publish for the detailed administration of the Block or for maintaining the character and amenities thereof whether in relation to the flats and their occupation or to the Retained Parts and their communal use
11. To carpet the Demised Premises throughout save for the kitchen bathroom and w.c.

#### **THE SIXTH SCHEDULE**

#### **(Landlord's Covenants)**

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1. The Tenant paying the rent hereby reserved and performing and observing the covenants with the Landlord on the part of the Tenant herein contained shall peaceably hold and enjoy the Demised Premises for the term hereby created without any interruption by the Landlord or any person lawfully claiming title under or in trust for the Landlord

2. That (if so required by the Tenant) the Landlord will enforce the covenants similar to those on the part of the Tenant herein contained entered into or to be entered into by the tenant of any other flat in the Block upon the Tenant indemnifying the Landlord against all costs and expenses in respect of such enforcement and providing such security in respect of such costs and expenses as the Landlord shall require.

3. (Until the grant of leases of any remaining flats in the Block have been completed) to observe and perform in relation to such flats such of the covenants and conditions corresponding to those contained in this Lease on the part of the Tenant as shall be applicable to vacant flats

4. To pay all existing and future rates taxes assessments and out-goings of whatever kind now or to be hereafter imposed or charged on or payable in respect of the Retained Parts

5. To insure and keep insured in the name of the Landlord (and to note the interest of the tenants for the time being of the flats comprising the Block and their respective mortgagees if so necessary) in some office of repute the Block against loss or damage by fire subsidence landslip heave and such other risks as are usually covered by a property owner's comprehensive policy in the aggregate amount of:

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- (a) the full replacement value of the Block and
- (b) the amount of two years' rent thereof to the Landlord

AND ALSO to insure against liability for personal injury or otherwise occurring to any person and such other risks as the Landlord may require and to make all payments necessary for effecting and keeping on foot such insurance **PROVIDED THAT** if the Block or any part thereof shall be destroyed or rendered unfit for use by any of the insured risks during the said term then and so often as the same shall happen **AND PROVIDED THAT** the policy or policies effected by the Landlord shall not have been vitiated or payment of the policy monies refused in whole or in part in consequence of some act or default by the Tenant the rent hereby reserved or a fair proportion thereof according to the nature and extent of the damage sustained shall from the date of destruction or damage be suspended or abated until the Block shall again be rendered fit for use and in case of difference touching this provision the same shall be referred to arbitration by a single arbitrator in accordance with the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force

6. As often as any part of the Block is destroyed or damaged by any peril covered by the aforementioned insurance to rebuild and reinstate the Block and to apply the proceeds of the insurance in that behalf in or towards such rebuilding or reinstatement

7. To keep the Retained Parts and all fixtures and fittings therein and additions thereto in good and tenantable repair and decorative condition (including any renewal and replacement of all worn or damaged parts) (damage by any of the insured risks excepted) but without prejudice

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to the rights of the Landlord to recover from the Tenant or any other person the amount or value of any loss or damage caused by the negligent or other wrongful act or default of the Tenant or such other person **PROVIDED THAT** the Landlord shall not be liable to the Tenant for any defects or wants of repair hereinbefore mentioned unless the Landlord has had prior written notice thereof and a reasonable opportunity to remedy the same

8. Before carrying out any repairs or other works required or permitted to be carried out hereunder and necessitating entry to the Demised Premises to give reasonable previous notice in writing to the Tenant and to carry out such repairs or works with the minimum of damage and inconvenience to the Tenant or other occupier of the Demised Premises and to make good all damage done

9. To keep so far as is practicable the entrance entrance-hall stairways passage landings paths and roads yards and communal refuse-bins properly cleaned and in good order and to keep adequately lighted all such parts of the Retained Parts as are normally or should be lighted

10. Notwithstanding anything herein contained the Landlord shall be under no liability either to parties hereto or to third parties who may be permitted to enter or use the Retained Parts or the Block for accidents happening injuries sustained or for loss of or damage to goods or chattels in the Retained Parts or the Block or in any part thereof whether arising from the negligence of the Landlord or that of any servant or agent of the Landlord or otherwise

11. To keep proper books of account of all costs charges and expenses incurred by the Landlord in carrying out it's obligations under this Schedule or in otherwise managing and administering the Block and once in each year during the said term to certify :

(a) the total amount of such costs charges and expenses for the period to which the certificate relates and

(b) the proportionate amount due from the Tenant to the Landlord under paragraph 10 of the Fourth Schedule hereto after taking into account payments made in advance under paragraph 11 of the same Schedule and to send a copy of the same to the Tenant

EXECUTED as a Deed by )  
H & A PROPERTY (INVESTMENTS) )  
LIMITED acting by )

Director:



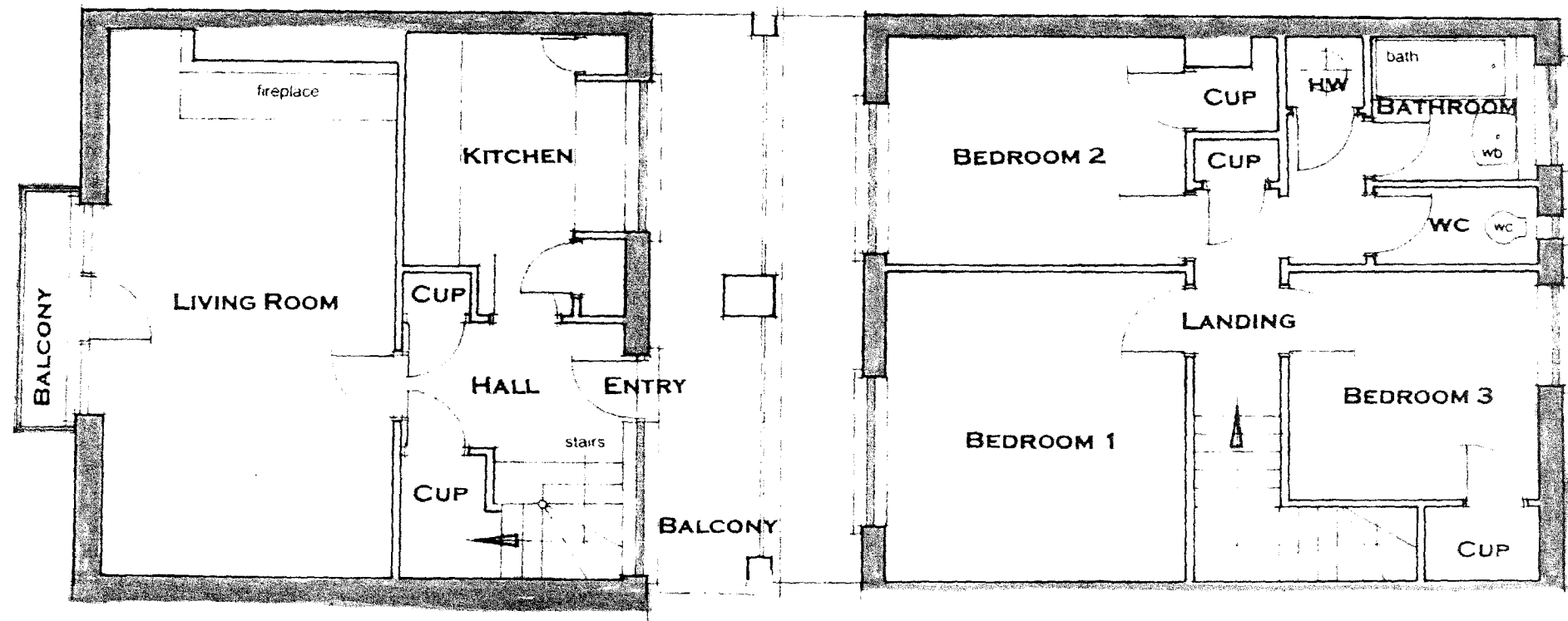
Director/Secretary:

*Karina P. P. P.*

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1 N/11

UNIT 'E'  
2 SHENLEY ROAD  
LONDON SE5 8ND



FLOOR PLANS

PLAN 2

2, SHENLEY ROAD  
LONDON  
SE5 8ND

