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HM Courts  
& Tribunals  
Service



Residential  
Property  
TRIBUNAL SERVICE

**NORTHERN RENT ASSESSMENT PANEL  
LEASEHOLD VALUATION TRIBUNAL**

**Case Reference: MAN/00BU/LAC/2012/0028 and 0035**

**DECISION of the LEASEHOLD VALUATION TRIBUNAL on an application under Sections 27A and 20C of the Landlord and Tenant Act 1985 and Schedule 11 of the Commonhold and Leasehold Reform Act 2002**

**Property:** Flat 8, Central 5, Wharf Road, Sale, Cheshire, M33 2ZJ

**Landlord:** 83 Central Management Limited (Landlord)  
**Represented by:** Ms Morgan of Counsel

**Also Present:** Ms M. Highams; Property Manager, Residential Management Group (RMG)  
Ms K. Gibson; Head of Collection, RMG

**Tenant:** Ms S. Davis (Leaseholder)  
**Represented by:** Mr G. Freeman; Solicitor

**Date of Hearing:** 25<sup>th</sup> February 2013

**Date of Decision:** 17<sup>th</sup> April 2013

**Tribunal:** Mr L. W. G. Robson LLB (Hons)  
Mrs J. Brown MRICS

**Decision Summary**

- (1) In the referred County Court case, the Tribunal decided that NO sums claimed in County Court Case No. 2YJ52282 (Tribunal Case No. MAN/00BU/LAC/2012/0035) were due from the Tenant at this time, the Landlord having effectively withdrawn its submissions at the start of the hearing. This case is now referred back to the Altrincham County Court to deal with court costs and any other outstanding matters.
- (2) In cases MAN/00BU/LAC/2012/0035 and MAN/00BU/LAC/2012/0028 the Tribunal decided that the Landlord was in breach of Sections 47 and

48 of the Landlord and Tenant Act 1987 (the 1987 Act), also Section 21B of the Landlord and Tenant Act 1985 (the 1985 Act), Schedule 11 (principally Paragraph 4) of the Commonhold and Leasehold Reform Act 2002 (CLARA), and the Lease (notably Schedule 7), the Landlord having accepted the Tenant's submissions entirely, part way through the hearing. Thus NO sums are due from the Tenant in respect of service charges or administration charges for the service charge years 2004 – 2011 inclusive.

- (3) If and when the Landlord is able to cure the defects noted above, the following items of service charge charged to the Tenant are unreasonable where charged, either all or in part:
- a) Company Secretarial Fees – (All years in dispute) – all
  - b) Health and Safety Reports – (Every second year) – all
  - c) Roof and gutter repairs - (All years in dispute) – all
  - d) Directors and Officers Insurance - (All years in dispute) – all
  - e) Insurance valuations (2009, 2010 and 2011) – all
  - f) General Expenses – (2008) – all
  - g) Emergency Assistance – (2010 and 2011) – all
  - h) Management Charges – (All years in dispute) – Reduced by 50%
  - i) Administration Charges – (All years in dispute) – all
- (4) Relating to Costs, the Tribunal made the following orders:
- a) Section 20C of the 1985 Act – No part of the costs incurred by the Landlord in connection with these tribunal proceedings are to be included in any future service charge made of the Tenant or any other leaseholder in the building.
  - b) CLARA, Schedule 12, paragraph 9, the Landlord shall reimburse the Tenant's application and hearing fees paid to the Tribunal under both these applications, totalling £175.
  - c) CLARA Schedule 12, Paragraph 10, the Landlord shall pay the Tenant's legal fees totalling £250 and out of pocket expenses totalling £78.05 paid in respect of each numbered application in this case, (i.e. Cases MAN/00BU/LSC/2012/ 0028 and 0035, thus totalling £656.10).
- (5) The Tribunal made the other decisions noted below.

#### **Preliminary**

1. By an order made on 21<sup>st</sup> August 2012 in the Altrincham County Court in Claim No. 2YJ52282 District Judge Jones referred the Landlord's claim for £873.25 in respect of estimated service charges and administration charges of £240 for the service charge year 2012 to this Tribunal.
2. The Tenant by two applications dated 3<sup>rd</sup> August 2012, sought orders under Section 27A of the 1985 Act, and under Schedule 11 of CLARA as to the reasonableness and payability of service charges for the service charge years commencing on 1<sup>st</sup> January 2004 – 2011 inclusive pursuant to a lease dated 13<sup>th</sup> December 2002, Extracts from the relevant legislation are attached as Appendix 1 below.

3. Pursuant to Directions of the Tribunal made on 2<sup>nd</sup> October 2012 the Applications in all three cases were heard on 25<sup>th</sup> February 2013.

### **Inspection**

4. The Tribunal inspected the subject property on the morning of the hearing accompanied by Ms Highams of RMG, managing agents for the Landlord. The Tenant did not attend. The subject Flat is on the first floor of a block of flats on an estate of similar blocks, all built about 2000. The estate has extensive grounds mostly laid to lawn, but with some areas planted with shrubs. There were also private roads, footpaths and parking facilities within the estate. Large communal "Euro" waste bins served the residents. The estate appeared clean, tidy and well cared for. The Tribunal noted that the design of the blocks on the estate, especially the roofs, incorporated many awkward areas which would require frequent maintenance, and consequently expense. Particularly there seemed to be a number of internal roof gutters.
5. The subject block was on four floors built of brick under a pitched roof, with double glazing throughout. The common parts were carpeted and quite plain, with no lift. There was an entryphone control and a post box for each of the flats on the ground floor. Electric storage heaters gave background heat to the common parts. The common parts were generally clean and tidy, and the paint work was clean. No significant traces of dust were noted. There was a weekly cleaning record on the noticeboard, which was apparently up to date. The state of the premises seemed consistent with the cleaning records.

### **Hearing**

6. The Landlord made written submissions dated 22<sup>nd</sup> October 2012 and 18<sup>th</sup> January 2013. The Tenant made written submissions dated 8<sup>th</sup> November 2012 and a skeleton argument dated 21<sup>st</sup> February 2013.
7. Ms Morgan (who had only recently been instructed) requested a short delay at the start of the hearing to await the arrival of and to take instructions from one of her clients. The Tribunal agreed to this request. The hearing commenced at 12.35pm. At the start of the hearing Ms Morgan stated that her client wished to withdraw its claim for both service charges and administration charges claimed in the case referred by the County Court, but without admitting that they were chargeable under the Lease. In her view, if the Landlord withdrew the claim, the Tribunal had no jurisdiction to make a determination.
8. Mr Freeman submitted that the Tribunal should make a determination that no sums were payable under the County Court referral.
9. After a short adjournment to consider the matter, the Tribunal informed the parties that it considered that its jurisdiction was circumscribed by

the court referral, and that without an application to withdraw lodged in the County Court, it should proceed to make a determination. For the record, the Tribunal notes that at that point in the hearing the Landlord still wished to defend the Tenant's applications on substantive issues which were also the subject of the court claim. Also the court claim included estimated charges due in 2012, which had not yet been finalised. It was open to the Landlord to put its paperwork in order and attempt to make a further claim for the estimated charges. To allow such a situation to develop would be unfair to the Tenant. The right course seemed to be to make a final determination on the Court claim, without prejudicing the landlord's right to make a further application on the final accounts for 2012.

10. Mr Freeman for the Tenant then proceeded with his submissions. After making his submissions on legal issues, the hearing was adjourned for a lunch break, prior to hearing his submissions on particular charges. During the break, the Landlord requested a short further adjournment to complete consultation with her clients. The Tribunal allowed the adjournment, as indications were given that the adjournment might result in shortening the hearing. At the restart of the hearing, Ms Morgan informed the Tribunal that her clients would not be making any (further) submissions or offering any evidence. The Tribunal was invited to make its determination based on the Tenant's submissions.
11. The Tribunal enquired as to Mr Freeman's submission on the reduction which his client considered should be applied to the management fee, on the basis that some work had been done. He considered that 50% was an appropriate figure. Ms Morgan referred only to her previous concession, accepting the Tenant's case.

## **Decision**

12. The Tribunal considered the evidence and submissions. In view of the Landlord's concessions at the hearing, the Tribunal has found it unnecessary to refer to the written submissions of either party in detail. The Tribunal therefore adopts the Tenant's submissions. Following the Tenant's submissions it makes the following decisions, with additional comments where necessary:
  - (A) In the referred County Court case, the Tribunal decided that NO sums claimed in County Court Case No. 2YJ52282 (Tribunal case No. MAN/00BU//LAC/2012/0035) were due from the Tenant at this time, the Landlord having effectively withdrawn its case at the start of the hearing. This case is now referred back to the Altrincham County Court to deal with court costs and any other outstanding matters.
  - (B) In cases MAN/00BU/LAC/2012/0035 and MAN/00BU/LAC/2012/0028, as submitted by the Tenant, the Tribunal decided that the Landlord was in breach of Sections 47 and 48 of the Landlord and Tenant Act 1987 (the 1987 Act), also Section 21B of the Landlord and Tenant Act 1985

(the 1985 Act), Schedule 11 (principally Paragraph 4) of the Commonhold and Leasehold Reform Act 2002 (CLARA), and the Lease (notably Schedule 7), the Landlord having accepted the Tenant's submissions entirely, part way through the hearing. Thus NO sums are currently due from the Tenant in respect of service charges or administration charges for the service charge years 2004 – 2011 inclusive.

- (C) If and when the Landlord is able to cure the defects noted above, the following items of service charge charged to the Tenant are unreasonable where charged, either all or in part, the Tribunal having accepted the Tenant's submissions:
- a) Company Secretarial Fees – (All years in dispute) – all charges were unreasonable, as the Landlord had offered no detailed evidence of the breakdown of these charges, and the Tenant's submission was that the cost should be included in the management fee.
  - b) Health and Safety Reports – (Every second year) – The charges for every second year were unreasonable. The Tenant's submission was that a Report was only reasonably required every second year.
  - c) Roof and gutter repairs - (All years in dispute) – all charges were unreasonable. The Tenant put the Landlord's case to proof, and insufficient details of the works were forthcoming.
  - d) Directors and Officers Insurance - (All years in dispute) – all charges were unreasonable. The Landlord provided very little detail. The Tenant submitted that the Landlord employed managing agents and all management functions were delegated to them.
  - e) Insurance valuations (2009, 2010 and 2011) – all charges were unreasonable. The Landlord submitted that the inspection was made every three years, and only one third of the cost was charged annually, but provided no evidence for this submission. The Tenant submitted that annual insurance valuations were excessive.
  - f) General Expenses – (2008) – all the charges were unreasonable. The Landlord offered no evidence. The Tenant submitted that these were excessive when compared with the same expenses for other years.
  - g) Emergency Assistance – (2010 and 2011) – all the charges were unreasonable. The Landlord offered no evidence. The Tenant submitted that these charges were not sufficiently explained.
  - h) Management Charges – (All years in dispute) – all the charges were unreasonable. The Landlord offered no evidence. The Tenant submitted that these charges should be reduced by 50% as the landlord had failed to comply with the terms of the Lease, and failed to comply with the terms of the statutes (noted at (A) above thus entitling the Tenant to withhold payment.
  - i) Administration Charges – (All years in dispute) – all charges were unreasonable. The Landlord submitted that there was power in the Lease to charge, but offered no evidence in support. The Tenant submitted that there was no power to charge administration charges in the Lease.

(D) Relating to Costs,

a) The Tenant applied under Section 20C that no part of the Landlord's costs of these Tribunal proceedings were to be regarded as relevant costs to be added to the service charge and payable by the Tenant or any of the other 74 leaseholders, as the Landlord had failed to satisfy the Tribunal on reasonableness or payability. Ms Morgan made no further submission on this point. The Tribunal accepted that it was just and equitable in all the circumstances of this case to make the Section 20C order in favour of the Tenant and the other 74 leaseholders.

b) Under CLARA, Schedule 12, paragraph 9, The Tenant applied for the Landlord to reimburse the Tenant's application and hearing fees paid to the Tribunal under both these applications. These amounted to £100 for the application fees, and £75 for the hearing fees. The Landlord made no submission. The Tribunal ordered reimbursement of both fees by the Landlord.

c) Under CLARA Schedule 12, Paragraph 10, the Tenant submitted that the Landlord had acted unreasonably within the terms of the Paragraph in pursuing the Landlord's claim, and defending the Respondent's applications. Mr Freeman confirmed to the Tribunal that his total fee was £500. The Tenant's disbursements (as detailed in her skeleton argument) totalled £156.10. Ms Morgan resisted this application. She did not challenge the costs but in her view the Landlord had not been unreasonable within the terms of the Paragraph. It had been reasonable to commence proceedings for payment of the charges demanded. The Tribunal noted that the Landlord, although advised by professional managers and lawyers, had pursued this case through the County Court and until part way through the hearing itself. The major outline of the Tenant's case had been put before the Landlord in the Tenant's Defence to the Court claim. Nevertheless, the Landlord had persisted with the claim for many months, and put in two substantive statements of case in opposition to the Tenant's applications. Then at the hearing it had entirely abandoned its own position. In the Tribunal's view such conduct went beyond being misguided, and crossed the threshold of Paragraph 10 unreasonableness. The Tribunal therefore ordered the Landlord to pay the Tenant's legal fees totalling £250 and out of pocket expenses totalling £87.05, to be paid in respect of each numbered claim, i.e. MAN/00BU/LSC/2012/ 0028 and 0035, thus totalling £656.10. For clarity, the Tribunal considered that in fact two substantive applications were before the Tribunal; the Landlord's claim relating to 2012, and the Tenant's application in respect of other years. The Tenant's cross-application in respect of 2012 appeared substantially to deal with the same subject matter as the Landlord's claim. Thus the Tribunal decided that it was entitled to make an order of up to £500 under Paragraph 10 in each case.

Thus the Tribunal made the following costs orders:

a) Section 20C of the 1985 Act – No part of the costs incurred by the Landlord in connection with these tribunal proceedings are to be included in any future service charge made of the Tenant or any of the other 74 leaseholders in the building.

b) CLARA, Schedule 12, paragraph 9, (amplified by the Leasehold Valuation Tribunals (Fees)(England) Regulations 2003, Regulation 9) the Landlord shall reimburse the Tenant's application and hearing fees paid to the Tribunal under both these applications, totalling £175.

c) CLARA Schedule 12, Paragraph 10, the Landlord shall pay the Tenant's legal fees and out of pocket expenses paid in respect of both numbered applications to the Tribunal, these totalling £500 and £156.10 respectively.

### **Other matters**

13. The Tribunal considers that the in the unusual circumstances of this case, its decisions should not be considered as precedents in other cases.



Chairman: Mr L. W. G. Robson LLB (Hons)  
Dated: 17th April 2013

### **Appendix 1**

#### **Landlord & 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 -
  - (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

## **Leasehold Valuation Tribunals (Fees)(England) Regulations 2003**

### **Regulation 9**

- (1) Subject to paragraph (2), in relation to any proceedings in respect of which a fee is payable under these Regulations a tribunal may require any party to the proceedings to reimburse any other party to the proceedings for the whole or part of any fees paid by him in respect of the proceedings.
- (2) A tribunal shall not require a party to make such reimbursement if, at the time the tribunal is considering whether or not to do so, the tribunal is satisfied that the party is in receipt of any of the benefits, the allowance or a certificate mentioned in regulation 8(1).

## **Commonhold and Leasehold Reform Act 2002**

### **Schedule 11, paragraph 1**

- (1) In this Part of this Schedule “administration charge” means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—
  - (a) for or in connection with the grant of approvals under his lease, or applications for such approvals,
  - (b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
  - (c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or
  - (d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.
- (2) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c. 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.
- (3) In this Part of this Schedule “variable administration charge” means an administration charge payable by a tenant which is neither—
  - (a) specified in his lease, nor
  - (b) calculated in accordance with a formula specified in his lease.
- (4) An order amending sub-paragraph (1) may be made by the appropriate national authority.

### **Schedule 11, paragraph 2**

A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

### **Schedule 11, paragraph 5**

- (1) An application may be made to a leasehold valuation tribunal for a determination whether an administration 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) Sub-paragraph (1) applies whether or not any payment has been made.
- (3) The jurisdiction conferred on a leasehold valuation tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.
- (4) No application under sub-paragraph (1) 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.
- (6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
  - (a) in a particular manner, or
  - (b) on particular evidence,of any question which may be the subject matter of an application under sub-paragraph (1).

### **Schedule 12, paragraph 10**

- (1) A leasehold valuation tribunal may determine that a party to proceedings shall pay the costs incurred by another party in

connection with the proceedings in any circumstances falling within sub-paragraph (2).

- (2) The circumstances are where—
  - (a) he has made an application to the leasehold valuation tribunal which is dismissed in accordance with regulations made by virtue of paragraph 7, or
  - (b) he has, in the opinion of the leasehold valuation tribunal, acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings.
- (3) The amount which a party to proceedings may be ordered to pay in the proceedings by a determination under this paragraph shall not exceed—
  - (a) £500, or
  - (b) such other amount as may be specified in procedure regulations.
- (4) A person shall not be required to pay costs incurred by another person in connection with proceedings before a leasehold valuation tribunal except by a determination under this paragraph or in accordance with provision made by any enactment other than this paragraph.

## **Appendix 2**

See Lease dated 13<sup>th</sup> December 2002 attached hereto

Land Registry  
Official Copy  
Produced from original store.  
Not to scale.

QM 935467 | 03

DATED 13-12-2002

We certify that this  
is a true copy of the  
original  
LATIMER LEE  
SOLICITORS  
NOTARY PUBLIC  
DATE: 11/1/03

- 83 CENTRAL MANAGEMENT COMPANY LIMITED (1)
- THE MILLER GROUP LIMITED (2)
- DEREK HARVIE (3)

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UNDERLEASE OF PART  
relating to Apartment 8, Block 5, 83  
Central, Bank Street, Sale

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H.M. LAND REGISTRY  
LAND REGISTRATION ACTS 1925 TO 1997

UNDERLEASE OF PART

Administrative Area : Greater Manchester : Trafford  
Title Number :   
Property Demised : Apartment 8, Block 5, 83 Central, Bank Street, Sale  
Date :

1 **Definitions**

1.1 The following definitions shall (unless the context requires otherwise) apply throughout this Underlease:

**"Adoptable Road"** the road verges and footpaths now or later constructed within the Development and which are intended to become public highways and to serve the Blocks.

**"Adoptable Sewers"** the main foul and surface water sewers now or later constructed within the Development which are intended to become public sewers.

**"Authorities"** relevant public highway drainage and planning authorities and undertakings responsible for the supply of water electricity gas communication media and similar services and Authority shall be construed accordingly

**"Block"** means the building marked "Block 5" and edged blue on the Plan of which the Property forms part

**"Blocks"** means Blocks 2, 3, 4 and 5 within the Development and comprising 75 apartments

**"Common Parts"** the main structure of the Block including the foundations and roof all load bearing and structural walls beams and pillars all structural floor slabs ramps and accessways the window frames and sills on all external walls and external boundary divisions the Service Installations, entry phone systems, CCTV and fire protection equipment and all other parts of the Block not comprised (or intended to be comprised) in the Underleases including all halls corridors staircases landings and other accessways and for the avoidance of doubt all pipelines and cables which do not exclusively serve the Property

<b>"Communal Areas"</b>	The external roads accessways and footpaths comprised within the Development
<b>"Deed of Covenant"</b>	A deed of covenant in the form set out in Schedule 10
<b>"Designated Parking Space"</b>	The car parking space shown edged green on the Plan
<b>"Development"</b>	all the land now or formerly vested in Miller comprising the land under title numbers GM842002 and GM885148 and the Blocks and Service Installations on or over such land (except the Property).
<b>"Defects Liability Policy"</b>	the NHBC Policy which has been issued in respect of the Block
<b>"Enactment"</b>	means <ul style="list-style-type: none"> <li>(a) any Act of Parliament and</li> <li>(b) any European Community legislation or decree or other supranational legislation or decree having effect as law in the United Kingdom and references (whether specific or general) to any Enactment include any statutory modification or re-enactment of it for the time being in force and any order instrument plan regulation permission or direction made or issued under it or under any Enactment replaced by it or deriving validity from it</li> </ul>
<b>"Lease"</b>	means the lease of the Development granted to the Management Company by Miller dated
<b>"Legal Obligations"</b>	means any obligation from time to time created by any Enactment or Authority which relates to the Property or their use and includes without limitation obligations imposed as a condition of any Necessary Consents
<b>"Management Company"</b>	83 CENTRAL MANAGEMENT COMPANY LIMITED (Company Number 4451474) whose registered office is at Spencer House, 93/95B Dewhurst Road, Birchwood, Warrington WA3 7PG
<b>"Necessary Consents"</b>	means planning permission or all other consents licences permissions and approvals whether of a public or private nature which shall be relevant in the context
<b>"Miller"</b>	THE MILLER GROUP LIMITED (Company Number SC18135) whose registered office is at Miller House, 18 South Groathill Avenue, Edinburgh EH4 2LW

<b>"Penalty Interest"</b>	means interest at 4% above the base rate of Lloyds TSB Bank Plc from time to time or if Lloyds Bank TSB Plc shall cease to exist such other English major clearing bank as the Management Company shall designate
<b>"Perpetuity Period"</b>	The period between 1st January 2002 and 31st December 2082
<b>"Plan"</b>	The plan attached
<b>"Price"</b>	<b>ONE HUNDRED AND FORTY TWO THOUSAND, NINE HUNDRED AND FIFTY POUNDS</b>  <b>POUNDS (£142,950.00)</b>
<b>"Property"</b>	the dwelling numbered 8 on Plan being that part of the Block on the first floor the position and extent whereof is indicated and edged in red thereon and including the internal surfaces of all walls floors and ceilings dividing the dwelling from other parts of the Block and including the whole of all doors and their frames and non-structural walls windows and their frames and the glass within them and all pipes wires and cables solely serving the dwelling (but excluding the Common Parts)
<b>"Service Installations"</b>	drains channels sewers pipes wires aerials cables watercourses gutters soakaways tanks pumps meters and television reception equipment and other similar installations (and any ancillary structures and equipment) now or later constructed within the Development or the Property
<b>"Superior Landlord"</b>	the owner of the freehold title of the Development and any other party having an interest in the Development in reversion to the Lease
<b>"Underleases"</b>	all underleases grant or to be granted by Miller or the Management Company of dwellings comprised in the Blocks
<b>"Underlessee"</b>	<b>DEREK HARVIE</b> of 14 Weavers Close, Iseworth, Middlesex, TW7 6EH
<b>"VAT"</b>	Value Added Tax as provided for in the Value Added Tax Act 1994 and includes any future tax of a like nature
<b>"Visitors Parking Spaces"</b>	the communal visitors parking spaces shown marked "V" on the Plan



**2 Co-Ownership Declaration**

- 2.1 The original Underlessee named above (if two or more persons) declares that the survivor of them [ is / is not ] entitled to give a valid receipt for capital arising on a disposition of the Property and that they are beneficial joint tenants.

**3 Operative Clauses**

- 3.1 In consideration of the payment by the Underlessee of the Price to Miller (the receipt of which is acknowledged by Miller) the Management Company at the direction of Miller demises the Property to the Underlessee with full title guarantee for a term of 200 years less three days from 1st January 2002 with the benefit of rights in the terms detailed in Schedule 1 (which in so far as not already in existence are granted by this Underlease) excepting and reserving rights in the terms detailed in Schedule 2 (which in so far as not already in existence are reserved out of this Underlease) for the benefit of Miller, the Management Company and every part of the Development and subject to the Underlessee YIELDING AND PAYING

- (a) from the date of this Lease until 31st December 2052 the sum of £75 per annum;
- (b) from 1st January 2053 until 31st December 2102 the sum of £150 per annum;
- (c) from 1st January 2103 until 31st December 2152 the sum of £225 per annum;
- (d) for the remainder of the term the sum of £300 per annum

in each case to be paid by two equal instalments in advance on 1st January and 1st July in each year by direct debit or such other means as the Management Company may determine the first of such payments to be made on the date of this Lease and (if necessary) to be apportioned provided that the rent shall not exceed the amount (if any) at which from time to time there would be imposed a statutory restriction on the freedom of the Underlessee to receive a premium on the transfer of the term, of years granted by this Lease and thereafter payments of the same shall (if the Management Company or the Superior Landlord shall so require in writing) be made direct to the Superior Landlord by the direction (hereby given) of the Management Company

- 3.2 The Underlessee covenants (so as to bind successors in title and each and every part of the Property):
- (a) with the Management Company in the terms detailed in Schedule 3; and
  - (b) with the Superior Landlord and separately and permanently with the Management Company and with the present or future owners of the other dwellings on the Development (so as to benefit each and every part of the Development) in the terms detailed in Schedule 4.
- 3.3 Miller covenants with the Underlessee in the terms detailed in Schedule 5.
- 3.4 The Management Company covenants with the Underlessee and separately with Miller

in the terms detailed in Schedule 6.

- 3.5 The Management Company and the Underlessee covenant with each other in the terms detailed in Schedule 7.
- 3.6 The Management Company and the Underlessee agree and declare in the terms detailed in Schedule 9.
- 3.7 If there shall be any breach of any of the Underlessee's covenants in this Underlease and the Underlessee shall fail to remedy the breach within a reasonable period the Management Company shall be entitled (in addition to any other right) to repossess the whole or any part of the Property and this Underlease shall then terminate immediately (but without affecting the Management Company's right to sue the Underlessee for any breach of any covenant).
- 3.8 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 aggregate amount or value of the consideration exceeds £250,000

Schedule 1  
(Appurtenant Rights)

The rights for the Underlessee and all persons authorised by it (in common with all others having a similar right):

- 1 of way for all reasonable purposes over the Adoptable Road
- 2 of way for all reasonable purposes over the roads accessways footpaths and other external accessways comprised in the Communal Areas which now or in the future serve the Property including a vehicular right of way between the Adoptable Road and the Designated Parking Space
- 3 of way for all reasonable purposes on foot only over all halls corridors staircases landings and other accessways comprised in the Block which give access to the Property
- 4 to the exclusive use of the Designated Parking Space
- 5 of reasonable short term use by visitors to the Property of the Visitors Parking Spaces
- 6 to use all other features of the Block in each case in such a way as may be conducive to the manner in which they are laid out constructed or provided but in any event for or as ancillary to reasonable domestic and recreational purposes only
- 7 to use the designated refuse receptacles for the disposal of normal household refuse
- 8 of light and air (together with the right to open any windows which serve the Property)
- 9 to use the Communal Areas in such a way as may be conducive to the manner in which they are laid out constructed or provided but in any event for or as ancillary to reasonable domestic and recreational purposes only and subject to the covenants in Schedule 4
- 10 of passage of sewage and water through the Adoptable Sewer
- 11 of passage of sewage water electricity gas communication media and similar services through such Service Installations as serve the Property
- 12 of support and protection of the Property from the Block
- 13 of entry on to the Block and the Development for the purposes of inspecting maintaining repairing and renewing the Property and any Service Installations serving the Property.

**Schedule 2**  
**(Adverse Rights)**

1 The rights for the Superior Landlord the Management Company or the owners of dwellings in the Development the Authorities and all persons authorised by any of them (in common with the Underlessee):

- 1.1 of free and uninterrupted passage of sewage water electricity gas communication media and other services through any Service Installations within the Property;
- 1.2 of support and protection of the Block by the Property;
- 1.3 of entry on to the Property for the purposes of inspecting laying connecting into constructing maintaining repairing and renewing the Block and Service Installations.

notwithstanding any interference with the access of light and/or air to the Property or any other amenity from time to time enjoyed by it

2 The right for Miller the Superior Landlord and the Management Company and all persons authorised by any of them to enter the Property:

- 2.1 to examine its condition; and
- 2.2 to execute any repair or other action required in any notice given by the Management Company pursuant to paragraph 13 of Schedule 4 but which one calendar month after service of the notice has neither been completed nor pursued diligently
- 2.3 to erect scaffolding for any purpose connected with or related to the Block notwithstanding that such scaffolding may temporarily restrict the access or passage of light to the Property or the use and enjoyment of the Property
- 2.4 the right for the Miller and any persons authorised by them to take photographs or videos of the exterior of the Property and to use the same for any purpose in connection with the publishing of any material, advert or article or other form and Miller shall not be under any obligation to pay to the Underlessee any consideration or remuneration in respect of the obtaining or publishing of such photographs and videos
- 2.5 to comply with any Legal Obligation on Miller the Superior Landlord or the Management Company
- 2.6 to comply with Miller's the Superior Landlord's or the Management Company's obligations under this Underlease

Schedule 3

(Underlessee's Covenants with the Management Company alone)

To indemnify the Superior Landlord at all times against all damages costs and any other liabilities resulting from any non-observance or non-performance by the Lessee of any covenants relating to the Property on the Registers of the title mentioned above.

**Schedule 4**  
**(Underlessee's Covenants with the Superior Landlord and the Management Company and other owners permanently)**

- |                    |   |
|--------------------|---|
| <b>REPAIR</b>      | 1. To keep the Property with all erections and improvements now or later made in a good state of repair decoration and condition <b>PROVIDED THAT</b> this covenant shall not apply to the extent that any lack of repair or decoration is caused by a risk which is the subject of the Management Company's insurance policy it has (from time to time) insured in accordance with clause 8 of Schedule 6 unless any insurance money under the relevant insurance policy is wholly or partly irrecoverable by reason of any act or neglect or default of the Underlessee in which case the Underlessee will pay the Management Company the said irrecoverable amount of the shortfall as the case may be |
| <b>LEGISLATION</b> | 2. To do all such works as any Legal Obligation may direct or require to be done on or in respect of the Property (whether by landlord tenant or occupier) not to do or permit to be done any act matter or thing in respect of the Property which shall contravene any such legislation and to keep the Superior Landlord and the Management Company indemnified against all claims demands and liabilities in any such respect.   |
| <b>USER</b>        | 3. Not to use any part of the Property other than for private residential purposes and not to allow the use of the Designated Parking Space other than by any owner of the Property or their visitors nor to park on any other parking spaces within the Development except the Visitors Parking Spaces   |
| <b>SUPPORT</b>     | 4. Not to do anything which may lessen the support or protection given by the Property to the Block.  |
| <b>NUISANCE</b>    | 5. Not to do or keep on the Property the Block and/or the Development (or allow household members visitors or others to do so) any act matter creature or other thing:<br><br>5.1 which may be or become a nuisance annoyance or disturbance or inconvenience to the Superior Landlord the Management Company or the registered proprietors of the titles to the Underleases including (but not limited to) the emission of excessive noise so as to be audible outside the Property or within the Block;<br><br>or<br><br>5.2 whereby any insurance effected by the Management Company in respect of the Block and/or the  |

Development may be rendered void or voidable or whereby the rate of premium may be increased.

**NOT TO  
OBSTRUCT**

6. Not to appropriate any facility or obstruct any area of the Block or Development except in the proper exercise of any right granted in this Underlease nor to allow any creature to foul or damage any such area in any circumstances whatsoever.

**DISPOSALS  
OF PART**

7. Not to transfer charge underlet or otherwise part with possession of part only of the Property

**NOTICES OF  
DEVOLUTION**

8. Within fourteen days of the date of every transfer assignment underlease grant of probate or administration assent transfer mortgage charge discharge order of court or other document or event effecting devolution of title to this Underlease to give notice thereof in writing to the Management Company to whom shall be paid a registration fee in respect of each notice of Twenty Five Pounds (£25.00) (or such higher sum as the Management Company may from time to time reasonably require) plus value added tax at the rate then prevailing.

**ALTERATIONS**

9. Not except strictly in accordance with detailed plans previously approved in writing by the Management Company:
- 9.1 to make any structural alteration to the Property;
  - 9.2 to erect on or affix to the Property any hoarding advertisement or notice save as permitted by clause 15; or
  - 9.3 to erect or construct on any part of the Property any building or other structure whatsoever.
  - 9.4 to change the style and/or colouring on the window frames and/or external doors

**CLOTHES  
DRYING**

10. Not to erect any rotary airer line or other apparatus for the drying of clothes linen or other items nor otherwise leave out any such items for drying on the Common Parts or Communal Areas or on any external wall balcony or window forming part of the Property or any other part of the Development

**ASSESSMENTS**

11. To pay all sums of any nature assessed or charged at any time upon the Property or the Superior Landlord the Management Company or the Underlessee in respect of the Property.

**EXPENSES**

12. To pay all expenses (including Solicitors' costs and Surveyors' fees) incurred by the Management Company incidental to the preparation and service of any notice under Section 146 of the

Law of Property Act 1925 notwithstanding that forfeiture is avoided otherwise than by relief granted by the Court.

- REPAIRS NOTICE** 13. Forthwith to execute any repairs or other action specified as necessary in any written notice given by the Superior Landlord or the Management Company following any inspection of the Property made by it pursuant to the right reserved in paragraph 2.1 or 2.2 of Schedule 2.
- REIMBURSEMENT COSTS** 14. Forthwith to reimburse the Superior Landlord or the Management Company costs (including its Surveyors' and Managing Agents' fees) incurred by either of them in the exercise of its rights pursuant to paragraph 2.2 of Schedule 2 (which costs shall be a debt due from the Underlessee to the Superior Landlord or the Management Company).
- RESTRICTION ON SELLING/LETTING BOARDS** 15. Not without the written consent of the Management Company to erect or display on any part of the Property or the Development any board or notice advertising the Property or any other item for sale or let or disposal by any other means (whether in whole or in part).
- VEHICLES** 16. Not to park any unroadworthy vehicle heavy or light goods vehicle caravan boat trailer or similar type of vehicle on the Adoptable Road, Communal Areas, Designated Parking Space, Visitors Parking Spaces or on any other part of the Development.
- MACHINERY** 17. Not to use or keep on the Property any operative machinery other than the usual domestic machinery.
- PETS** 18. Not without the written consent of the Management Company to keep on the Property any pets of any kind.
- LANDSCAPING** 19. Not to remove or destroy any tree or shrub planted on the Development as part of any landscaping scheme unless the same shall be causing damage to the Property.
- ALTERATION OF FEATURES** 20. Not to remove decorate embellish or otherwise change the appearance of or interfere with any planting boxes or beds stonework railings parapets columns statues or other landscaping or ornamental features installed by the Management Company on the Property or the Development.



- |                  |     |   |
|------------------|-----|---|
| AERIALS          | 21. | Not to erect any external television or radio aerial on any part of the Property or the Block without the written consent of the Management Company.  |
| SATELLITE DISHES | 22. | Not to position any satellite dish or ancillary apparatus on any part of the Property or the Block without the written consent of the Management Company and the written consent or acquiescence of the Authorities.  |
| COMMUNAL AREAS   | 23. | Not to use the Communal Areas or Common Parts for the purposes of any barbecue organised games party or other function without the permission of the Management Company previously obtained and not to do or allow to be done anything in the said Communal Areas or Common Parts which causes a nuisance or annoyance to the other occupiers on the Development. |
| VAT              | 24. | Any obligation to make a payment pursuant to this Underlease shall include an obligation to pay any VAT properly payable on it.   |
| YIELDING UP      | 25. | Upon determination of this Underlease (howsoever it occurs) the Underlessee shall yield up the Property to the Management Company in a state of repair condition and decoration which is consistent with the proper performance of the Underlessee's covenants in this Lease.   |
| REGULATIONS      | 26. | To comply with any regulations the Management Company may make pursuant to paragraph 14 of Schedule 6.  |

**Schedule 5**  
**(Miller's Covenants)**

- |                              |    |  |
|------------------------------|----|--|
| <b>ROAD AND SEWERS</b>       | 1  | <p>In regard to the Adoptable Road and the Adoptable Sewer:</p> <ul style="list-style-type: none"><li>1.1 to construct them to adoption standards;</li><li>1.2 to have them adopted by the appropriate Authorities;</li><li>1.3 to maintain them until adopted; and</li><li>1.4 to indemnify the Lessee against all liability in respect of them until adopted except for any damage caused by the Lessee</li></ul>  |
| <b>MAINTENANCE</b>           | 2. | <p>Until such time as it or the Management Company grants the Underleases (and so far as not the responsibility of the Management Company) to maintain repair and renew all dwellings comprised in the Development and defined as the property demised in the Underleases in accordance with the covenants on the underlessee's part in the form of the Underleases. For the avoidance of doubt such obligation shall automatically lapse in respect of the part of the Property to be comprised in any Underlease once such Underlease is granted</p> |
| <b>OTHER FACILITIES</b>      | 3. | <p>To construct to the requirements of the Authorities the Common Parts the Communal Areas and any Service Installations serving the Property which have not been completed at the date of this Underlease and which Miller is contractually obliged to complete.</p>  |
| <b>SECTION 106 AGREEMENT</b> | 4. | <p>To comply with the obligations on the part of The Miller Group Limited contained in a Section 106 Agreement which relates to the Development and which is dated 8th May 2001 and made between Trafford Borough Council (1) Mosain Chohan, Chohan Clothing Co (Manchester) Limited and the Santhouse Pensioner Trustee Company Limited (2) The Miller Group Limited (3).</p>   |

**Schedule 6**  
**(Management Company's Covenants)**

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|--------------------|-----|--|
| REPAIR             | 1.  | To keep in a good state of repair and condition (including inspection testing maintaining-altering rebuilding and renewing where necessary) the Communal Areas the Common Parts the Designated Parking Space the Visitors Parking Spaces and all Service Installations within the Block and any within the Property which do not serve it exclusively.   |
| PAINTING           | 2.  | To paint or otherwise treat (as may be appropriate) as often as may be necessary in a proper and workmanlike manner and with suitable materials of a good quality such parts of the Common Parts as are usually painted or otherwise treated.  |
| AMENITY SERVICES   | 3.  | To keep the communal entrance halls passageways and staircases of the Block heated (and comfort cooled or ventilated when reasonably necessary), lit (including security floodlighting if required), carpeted (if reasonably appropriate) clean and tidy and the exterior of the Block clean.  |
| GROUNDS            | 4.  | To maintain tidy and cultivate any landscaping and other external facilities of the Development .  |
| WORKING FACILITIES | 5.  | To energeise and maintain in proper working order any lamps sockets taps and other working facilities comprised in the Common Parts.   |
| AERIALS            | 6.  | To maintain in proper working order any communal aerial system or satellite dish serving the Block.  |
| SECURITY           | 7.  | To operate in the Common Parts such fire prevention fire fighting and fire alarm and detection equipment and signs as may be required by any authority or legislation or by the insurers.  |
| GENERAL INSURANCE  | 8.  | To keep the Block and all other insurable parts of the Development insured against all risks from time to time included in a comprehensive block buildings policy and such other risks as the Management Company shall in its reasonable discretion deem necessary in a sum equal to its full rebuilding cost (including the removal of debris) for the time being together with an adequate sum in respect of Architects' and Surveyors' fees and thereafter. |
|                    | 8.1 | to make all payments necessary for the above purpose within seven days after the same shall become due;  |

- 8.2 to produce to the Underlessee on demand the policy of such insurance and the receipt for each such payment;
- 8.3 to cause all monies received by virtue of such insurance to be forthwith expended in rebuilding and reinstating the Block and the Development; and
- 8.4 to make up out of the Management Company's own monies any deficiency in the money required to complete such rebuilding and reinstatement.

**NHBC INSURANCE 9.**

The Management Company covenants with the Underlessee that where a Defect or Major Damage occurs (as defined under the Defects Liability Policy) it will:

- 9.1 make (and pursue diligently) each such claim as soon as the relevant Defect or Major Damage comes to the attention of the Management Company; and
- 9.2 use all monies it receives under the Defects Liability Policy to make good the Defect or Major Damage as soon as reasonably practicable

**ASSESSMENTS 10.**

To pay all rates taxes assessments and outgoings charged imposed or assessed in respect of the Common Parts Communal Areas and any other parts of the Development in the ownership of the Management Company.

**REVERSIONARY COVENANTS 11.**

To comply with the covenants by the Management Company in any Transfer of the Development now or later made (so far as such covenants affect the Property).

**QUIET ENJOYMENT 12.**

To allow the Underlessee (subject to compliance with its obligations under this Underlease) to hold and enjoy the Property throughout the term created by it without any interruption by the Management Company.

**ENFORCEMENT 13.**

To enforce (if so reasonably required by the Underlessee in writing) the covenants in terms similar to those contained in Schedule 4 to this Underlease given or to be given in the Underleases of all dwellings comprised in the Development upon the Underlessee indemnifying the Management Company against all costs and expenses in respect of such enforcement and providing such security or deposit for payment of the said costs and expenses as the Management Company may require and complying with all the Management Company's reasonable requirements.

- REGULATION      14.    To make from time to time (if, considered appropriate) reasonable regulations for the management of the Communal Areas and the Common Parts
- UNIFORMITY      15.    To impose in the Underleases covenants in terms similar to those contained in Schedule 4 to this Underlease.
- GENERAL          16.    The provision of any other works services or facilities which the Management Company from time to time reasonably considers appropriate for the purpose of maintaining improving or modernising the services or facilities in or for the Block the Communal Areas and the Common Parts and which are:
- 16.1    in keeping with the principles of good estate management and
- 16.2    capable of being enjoyed by the occupiers of the Block

Schedule 7  
Part I - (Covenants in respect of the Service Charge)

1. In this Schedule the following expressions have the following meanings respectively:-

"Service Charge" means expenditure including Value Added Tax incurred by the Management Company in the Management Company's financial year in carrying out such of its obligations and exercising such of its discretionary rights and powers under Schedules 6 and 8 of this Lease as relate to the Block Commons Parts and the Communal Areas. The percentage of Service Charge set against the Property is as referred to Part II of this Schedule.
2. The amount of the Service Charge shall be ascertained and certified by a Certificate (hereinafter called "the Certificate") signed by suitably qualified chartered accountant acting as experts and not as arbitrators annually and so soon after the end of the Management Company's financial year as may be practicable and shall relate to such year in manner hereinafter provided PROVIDED THAT the Management Company will comply with the requirements of any statute relating thereto
3. The expression "the Management Company's financial year" shall mean the period from the first day of January in any year to the thirty-first day of December in the same year or such other annual period as the Management Company may by written notice in its reasonable discretion from time to time determine as being that in respect of which the accounts of the Management Company shall be made up
4. One copy of the Certificate for each such financial year shall be supplied by the Management Company to the Underlessee on written request and without charge to the Underlessee
5. The Certificate shall contain a fair summary of the Service Charge and the Underlessee shall be entitled at his own expense and upon prior payment of any costs to be incurred by the Management Company or its agents at any time within one month after service of the Certificate to inspect the receipts and vouchers relating to the payments in respect thereof
6. The Service Charge shall be deemed to comprise exclusively FIRSTLY expenses which have been both incurred and actually paid or disbursed during the Management Company's financial year in question SECONDLY expenses which have been actually paid or disbursed during the same year but which had been incurred at some previous time AND THIRDLY expenses which have been incurred and paid during the previous financial year but not included in the accounts for that year PROVIDED ALWAYS that such expenses shall not have been included in any Certificate for a previous year
7. The Underlessee shall if required by the Management Company pay to the Management Company on the usual quarter days in every year such sum in advance and on account of the Service Charge as the Management Company or its accountants or Managing Agents (as the case may be) shall specify twice yearly at their discretion

to be fair and reasonable interim payments PROVIDED THAT the Underlessee shall on the date hereof by way of such interim payments pay amounts computed on a daily basis at annual rates notified to the Underlessee in respect of the period from the date hereof to the quarter day next following and thereafter until further notice at the same rates on the usual quarter days

8. As soon as practical after the signature of the Certificate the Management Company shall furnish to the Underlessee an account of the Service Charge payable by the Underlessee for the financial year in question due credit being given therein for all interim payments made by the Underlessee in respect of the said year AND upon the furnishing of such account showing such adjustment as may be appropriate there shall be paid by the Underlessee to the Management Company the amount of the Service Charge or any balance found payable or there shall be allowed by the Management Company to the Underlessee any amount which may have been overpaid by the Underlessee by way of interim payment as the case may require
9. The Management Company will use its reasonable endeavours to maintain expenditure at the lowest reasonable figure consistent with the due performance and observance of its obligations contained in Schedules 6 and 8 hereto and with the principles of good estate management and with the overriding aim of preserving the amenity of the Block the Common Parts and the Communal Areas
10. Where reasonable to do so having regard to the principles of good estate management the Management Company shall be entitled to vary extend suspend discontinue or reduce the subject matter of the Service Charge and/or the percentages set out in Part II of this Schedule PROVIDED THAT the Management Company will ensure that in considering whether to incur any new items of expense or charge pursuant to Schedule 7 at least three bona fide quotations are obtained from reputable entities and to select the most competitive quote (in light of the services being given).
11. The Management Company shall not be obliged to provide the services specified in Schedule 6 where it is prevented from doing so by circumstances beyond its reasonable control including without limitation breakdown damage the need for inspection or repair shortage of labour fuel equipment or materials and inclement weather provided and to the extent that any such failure or interruption could not reasonably have been prevented or shortened by the exercise by the exercise of proper care attention diligence and skill by the Management Company or those undertaking the services on its behalf and the Management Company shall use all reasonable endeavours to restore the relevant service in question as soon as reasonably practicable.
12. The Management Company consent to allow sufficient time for the Underlessees (or their successors) to make and to take account of representations the Underlessees (or their successors) and/or the present or future owners of the other dwellings on the Development make in relation to the level of services and/or the cost of them being provided by the Management Company (or its agents) from time to time.
13. All interim payments shall be held until expended in a deposit account earning a reasonable commercial rate of interest and all interest so earned shall be credited to the Service Charge account.

14. The foregoing provisions of this Schedule shall remain in full force and effect and shall continue to apply notwithstanding the termination of the said term but only in respect of the Service Charge apportioned on a daily basis which becomes due and payable for a period ending on the date of the termination of the said term
15. The day to day management of the Development and of the Service Charge expenditure will be carried out in the proper interests of all occupiers of the Block and in accordance with the requirements of good estate management by CPM Northern or another substantial and reputable managing agents appointed by the Management Company from time to time to replace them

**Part II**  
**Apportionment Schedule**

Block	Apartment Numbers	% Service Charge
Block 2	1 - 11	1.33% per apartment
Block 3	1 - 18	1.33% per apartment
Block 4	1 - 27	1.33% per apartment
Block 5	1 - 19	1.33% per apartment
Total	75 apartments @ 1.33% per apartment	100 %



**Schedule 8**

**(Other expenditure to be recovered by means of the Service Charge)**

- |                       |    |  |
|-----------------------|----|--|
| <b>SUNDRY FEES</b>    | 1. | All fees charges expenses salaries wages and commissions paid to any Managing Agent Auditor Accountant Surveyor Valuer Architect Solicitor or any other agent contractor or employee whom the Management Company may engage in connection with the carrying out of its obligations under this Underlease and the Underleases including the costs of and incidental to the preparation of the estimates notices and accounts pursuant to Schedule 7 and collecting all rents and service charges. |
| <b>INSURANCE</b>      | 2. | The costs of effecting and maintaining in force any insurance policy which the Management Company may effect which it may in its absolute discretion deem necessary in relation to the Communal Areas Common Parts Designated Parking Space and Visitors Parking Spaces.   |
| <b>INTEREST</b>       | 3. | Any interest or other charges incurred by the Management Company in borrowing money (including the cost of procuring any guarantee or bond for repayment) for the purpose of any of the matters referred to in this Schedule and any other bank account charges.   |
| <b>LITIGATION</b>     | 4. | The costs incurred by the Management Company in bringing or defending any actions or other proceedings against or by any person or organisation less the amount of such costs recovered from such party.   |
| <b>ADMINISTRATION</b> | 5. | The costs of administering the Management Company including the costs of preparing and auditing accounts the printing and sending out of notices circulars reports or accounts the holding of meetings and all fees payable to the Government or any other body and the proper expenses of the Directors and the Secretary.  |
| <b>VAT</b>            | 6. | Any VAT payable by the Management Company in respect of its obligations so far as they are not recoverable by the Management Company as an input.  |
| <b>OUTGOINGS</b>      | 7. | All outgoings attributable to the Common Parts the Communal Areas and any other property used by the Management Company in connection with the performance of its obligations in Schedule 6 (including the cost of leasing any item required in so performing its obligations).  |
| <b>RESERVE FUND</b>   | 8. | Such sum as the Management Company shall properly determine as desirable to be set aside in any year towards a   |

reserve fund to make provision for expected future substantial capital expenditure.

Schedule 9  
(Agreements and Declarations)

1. The rights detailed in Schedules 1 and 2 are valid only if first exercisable within the Perpetuity Period and are subject to the persons exercising them:
  - 1.1 as to the rights of entry:
    - 1.1.1 effecting entry at a reasonable time (or at any time in an emergency);
    - 1.1.2 giving reasonable notice;
    - 1.1.3 causing as little damage as possible; and
    - 1.1.4 making good to the reasonable satisfaction of any person thereby affected any damage caused;
  - 1.2 as to the rights in respect of the Communal Areas Common Parts the Designated Parking Space the Visitors Parking Spaces and the Block making all payments due pursuant to Schedule 7.
2. Section 196 of the Law of Property Act 1925 shall apply to any notice served under this Underlease.
3. If any dispute shall arise between the Underlessee and the registered proprietors of the titles to the Underleases and/or the Management Company or any of them relating to:
  - 3.1 the Property the Development the Communal Areas the Common Parts the Designated Parking Space the Visitors Parking Spaces the Block or Service Installations;
  - 3.2 any rights granted or reserved; or
  - 3.3 any covenants agreements or declarationsthen such dispute shall be referred by any of the parties thereto to the determination and award of a Solicitor to be chosen by the said parties (or in default of agreement to be nominated by the President for the time being of the Law Society) whose determination and award shall be final and binding on the Underlessee and the other party or parties to the dispute and whose fees and expenses shall be borne by the Underlessee and the other party or parties to the dispute in such proportions as such Solicitor shall determine.
4. The Underlessee shall not by implication prescription or otherwise than by grant in this Underlease become entitled to any right of light or air or other easement which would restrict or interfere with the free use for building or any other purpose of the Development or any adjoining or neighbouring land belonging to the Management Company or Miller (or any other Company in the same group).

5. Miller may at any time modify or release any covenant or other restriction enforceable by it in respect of any part of the Development and shall not be bound by any plotting or development scheme relating to the Development and may at any time modify or abandon any such scheme.
6. This Underlease shall (unless the context requires otherwise) be interpreted so that:
  - 6.1 (unless otherwise stated in either case) references to clauses and Schedules are references to Operative Clauses of and Schedules to this Underlease and their respective sub-divisions and references to paragraphs are references to paragraphs of the Schedule in which the reference appears;
  - 6.2 headings and marginal notes are inserted for convenience only and shall not affect the construction of this Underlease;
  - 6.3 the expressions "Miller" "the Management Company" and "the Underlessee" shall extend to their respective successors in title;
  - 6.4 the singular number shall include the plural number (and vice versa);
  - 6.5 the neuter gender shall include the masculine and/or feminine genders (and vice versa in either case);
  - 6.6 all covenants shall (where more than one person gives or becomes bound by them) be treated as joint and several;
  - 6.7 references to doing any act shall extend to arranging or allowing such act; and
  - 6.8 references to statutory provisions shall be construed as references to those provisions as amended or re-enacted or as their application is modified by other provisions (whether before or after the date of this Underlease) and shall include references to any provisions of which they are re-enactments (whether with or without modification).
7. In the event of any late payment the Underlessee shall pay Penalty Interest to the relevant payee from the date upon which the relevant payment is due to the date of actual payment
8. The Management Company shall not be responsible for any breach of its obligations as a result of any failure or interruption of the matter in question so long as the Management Company uses its reasonable endeavours to remedy the same as soon as reasonably practicable after becoming aware of such circumstances or due to temporary interruption while the Management Company is complying with its other obligations to inspect, maintain and/or repair etc pursuant to this Underlease.
9. This Underlease is a new tenancy for the purposes of the Landlord and Tenant (Covenants) Act 1995

10. The provisions of Section 6 of the Party Wall Etc Act 1996 shall not need to be observed by the Superior Landlord Miller and/or the Management Company before it carries out any works after today's date in connection with the construction of any dwelling or ancillary building or the carrying out of any other works on any land adjoining or adjacent to the Property to the intent that the rights reserved in this Underlease to Miller the Superior Landlord and/or the Management Company shall override the said Act and such rights can be enjoyed without serving notice and going through the procedures in the said Act
11. IT IS HEREBY AGREED AND DECLARED that no transfer of the Property or any part of it shall be registered at HM Land Registry unless and until (a) the transferee shall have entered into a Deed of Covenant at the Underlessee's expense with the Superior Landlord and the Management Company and (b) Miller (prior to the handover date) or the Management Company (after the handover date) shall have given its consent to the registration of such transfer
- 11.1 Miller and the Superior Landlord and the Management Company hereby agree that upon any transferee of the Property entering into a Deed of Covenant in the form set out in Schedule 10 and (if required) becoming a member and/or a director of the Management Company Miller the Superior Landlord or the Management Company (as the case may be) will consent to the registration of the transfer in favour of such transferee
- 11.2 The parties to this Underlease apply to the Chief Land Registrar at HM Land Registry to enter a restriction on the register of the title to the Property to the effect that except under an order of the Registrar no dealing with the land shall result in a change of ownership of this title shall be registered unless a certificate by a solicitor is furnished that a Deed of Covenant has been executed and delivered in accordance with the terms of the registered lease.

Schedule 10  
(Deed of Covenant)

THIS DEED OF COVENANT is made the                      day of

BETWEEN:

- (1)    [ ] of [ ] ("the Transferee")
- (2)    83 CENTRAL MANAGEMENT COMPANY LIMITED whose registered office is situate at [ ] ("the Company") and
- (3)    [Superior Landlord] ("the Superior Landlord")

WHEREAS:

- (A)    By a Underlease dated [ ] ("the Original Underlease") the Company demised to [ ] ("the Original Purchaser") the leasehold property known as Apartment [ ], 83 Central, Bank Street, Sale ("the Premises") and the Original Underlease contained a covenant on the part of the Original Purchaser for himself and his successors in title not to sell transfer or dispose of the Premises without contemporaneously procuring that the new owner or owners thereof enters into a Deed of Covenant in the form of these presents (mutatis mutandis)
- (B)    The leasehold interest in the Premises is presently vested in the names of [ ] and is registered at HM Land Registry under title number [ ]
- (C)    The Transferee has contracted with the said [ ] for the purchase of the leasehold interest in the Premises
- (D)    The consent of [the Company] [the Superior Landlord] is required before the transfer of the Premises in favour of the Transferee can be registered at HM Land Registry

1. OPERATIVE PROVISIONS

The Transferee hereby covenants with the Company and the Superior Landlord as follows:

- 1.1    To observe and perform all the covenants and stipulations on the part of the Original Purchaser contained in Clause 3.2 of the Original Underlease
- 1.2    On any sale transfer or other disposal of the Premises to procure that the new owner or owners thereof enters into a Deed of Covenant in the form of the Deed of Covenant set out in the Schedule of the Original Underlease (mutatis mutandis)
- 1.3    On any sale transfer or other disposal of the Premises to resign contemporaneously from and transfer and dispose of all rights attaching to his membership of the Company to the new owner or owners if the Transferee is required to become a member of the Management Company

1.4 If Clause 1.3 applies on any sale transfer or other disposal of the Premises to procure that the new owner or owners of the Premises have at the date of such sale transfer or other disposal applied to become a member of the Company with the intention that the owner or owners for the time being of the Premises at all times shall be members of the Company

1.5 If Clause 1.3 applies on any sale transfer or other disposal of the Premises to procure contemporaneously that the new owner or owners of the Premises will (if so required by the Company become a Company Director and/or a Company Secretary (as the case may be) of the Company.

1.6 To pay to the Company or its solicitors their proper costs in respect of the preparation and completion of these presents and any Stamp Duty payable thereon

2 The parties acknowledge that:

2.1 [The Transferee has applied to become a member of the Company and]

2.2 [The Transferee has applied to become a Company Director and/or a Company Secretary of the Company]

or [The Company certifies that the Transferee is not required to apply to become a Company Director and/or a Company Secretary of the Company]

3 [The Company] [The Superior Landlord] hereby consents to the registration of the transfer of the Premises in favour of the Transferee at HM Land Registry

4 In this deed whereby the context so admits:

4.1 Words importing the singular number only include the plural number and vice versa words importing the masculine gender only include feminine gender and reference to "the Superior Landlord" "the Company" and "the Transferee" shall include their respective successors in title

4.2 Where there are two or more persons included in the expression "the Transferee" covenants expressed to be made by the Transferee shall be deemed to be made by such persons jointly and severally

This document is executed as a deed and is delivered on the date stated at the beginning of this deed

Original

**SIGNED as a DEED on behalf of  
THE MILLER GROUP LIMITED**  
acting by its attorneys

.....  
(Name in block capitals)

.....  
(Signature of Attorney)

Signed here name of the Company

.....  
(Name in block capitals)

.....  
(Signature of Attorney)

Signed here name of the Company

in the presence of:

Witness Signature .....

Name .....

Address 55 Colmore Row, Birmingham B3 2AS

**SIGNED as a DEED on behalf of  
THE MANAGEMENT COMPANY**  
acting by a Director and its Company  
Secretary or two of its Directors:

Director

Secretary/Director



Original

SIGNED as a DEED on behalf of  
**THE MILLER GROUP LIMITED**  
acting by its attorneys

..... LISA HILL .....  
(Name in block capitals)

Signed here name of the Company

..... JONNE JUAN GRACE .....  
(Name in block capitals)

Signed here name of the Company

..... [Signature] .....  
(Signature of Attorney)

..... The Miller Group Limited .....

..... [Signature] .....  
(Signature of Attorney)

..... The Miller Group Limited .....

in the presence of:  
Witness Signature..... [Signature] .....  
Name..... M.D.A. WEBB .....  
Address 55 Colmore Row, Birmingham B3 2AS

SIGNED as a DEED on behalf of  
**THE MANAGEMENT COMPANY**  
acting by a Director and its Company  
Secretary or two of its Directors:

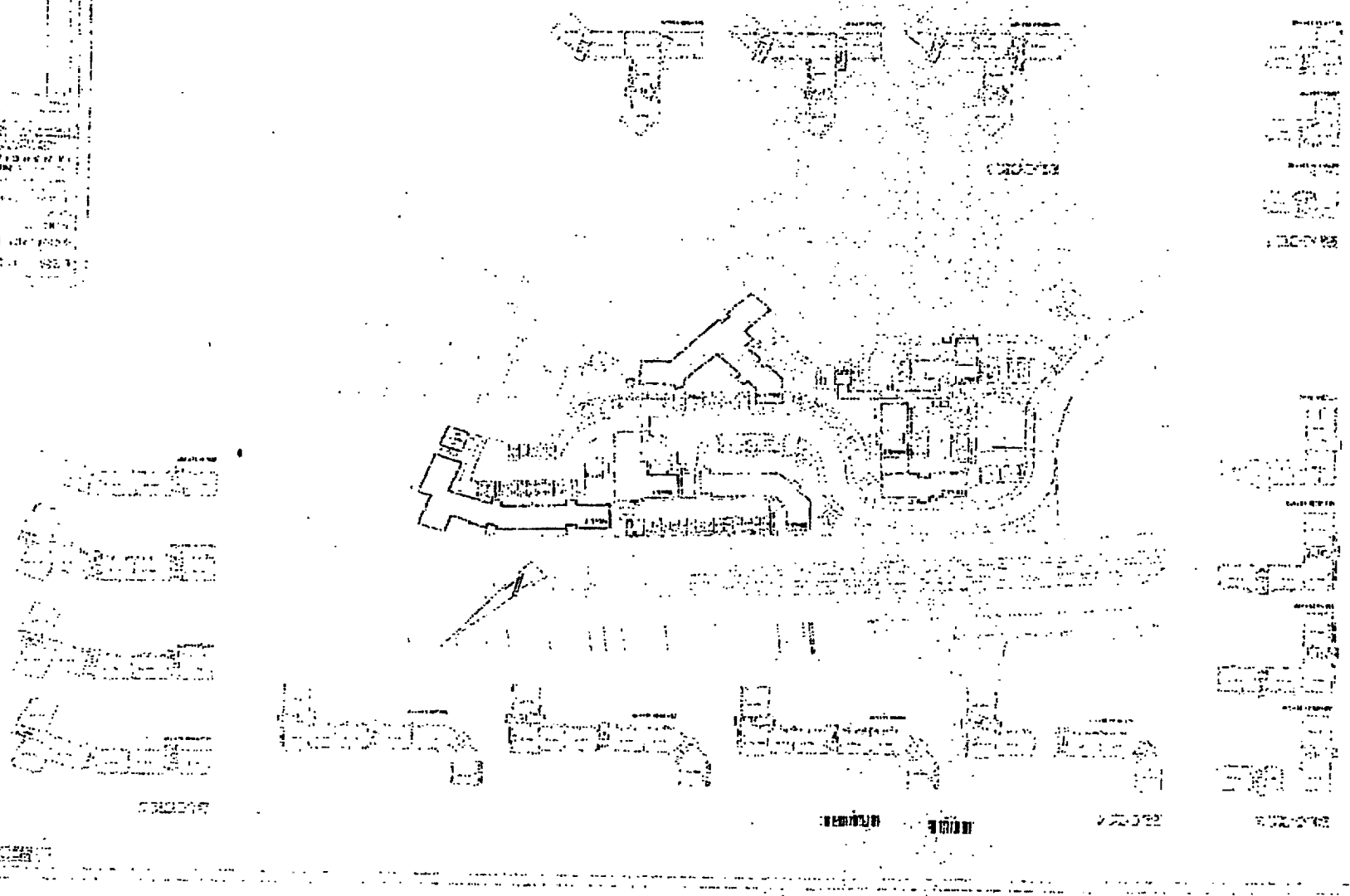
Director Secretary

..... [Signature] .....

Secretary/Director

..... [Signature] .....

STREET INDEX  
A-Z



Bank Street  
Conveyance Plan  
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