

10848



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : **MAN/30UH/LVT/2013/0004**

**Property** : **Various flats at Low Mill, Caton, Lancaster.  
LA2 9DY (see Appendix 1)**

**Applicant** : **Finchfive Low Mill (Caton) Limited**

**Respondents** : **Various (see Appendix 1)**

**Type of Application** : **Variation of Leases under Part IV of the  
Landlord and Tenant Act 1987**

**Tribunal Members** : **Judge G. C. Freeman  
Mr J Faulkner FRICS Expert Surveyor  
Member**

**Date of Decision** : **9 March 2015**

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**DECISION**

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## ORDER

**The various leases described in the second and third columns of Appendix 1 and registered under the title numbers in the fourth column be varied in such a way as to provide for the recoverability of service charges as set out in the specimen Deed of Variation annexed to this decision at Appendix 2**

**Deeds of Variation are to be entered into by the relevant parties within three months of the date of this decision and thereafter are to be registered at the Land Registry**

### Background

1. The Applicant has applied to the Tribunal pursuant to section 35 of the Landlord and Tenant Act 1987 ("the Act") to vary the terms of leases of the Property to which the Applicant is the successor in title to the original landlord and the Respondents are either the original tenants or the successors in title to the original tenants.
2. This decision should be read in conjunction with the Tribunal's decision in case numbered **MAN/30UH/LVL/2014/0002** relating to 28 and 29 Low Mill Caton, Lancaster LA2 9DY which gives the history and background to the Property. That application, together with this, were heard by the Tribunal on 4<sup>th</sup> December 2014. Various parties submitted written representations to the Tribunal and oral representations were made at the hearing but no substantive objection was made to the principle that the variations sought were necessary to correct the proportions of service charge payable under the respective leases, except for the application referred to above.
3. The Tribunal deferred issuing this decision to allow for amendments to be made by the Applicant to the proposed deeds of variation. A further hearing was held to consider these amendments on Friday 27<sup>th</sup> February 2015 at the Manchester IAC, Piccadilly Exchange, 2 Piccadilly Plaza, Manchester M1 4AH at 10.30 am. The hearing was attended by Mr M Wilson of Oglethorpe Sturton and Gillibrand, solicitors to the Applicant, and Mr W Scott and Mrs M. Boardman, who are respondents. The Tribunal received an email from one respondent which was considered by the parties attending and the Tribunal.

## Reasons for Decision

4. In the light of the variations made to the deeds of variation, on considering the representations from some of the Respondents and the apparent agreement of all the Respondents to the principle that the service charge provisions of the various leases required amendment, and the decision referred to above, the Tribunal is persuaded that the provisions of Section 35(2) are made out and that it is appropriate for the Tribunal to make the Order as requested by the Applicant.

### Appendix 1

Address	Lease Date	Original Tenant	Title No	Respondent/s
10	30.06.94	Yates	LA741344	Stephen Lee and Doreen Lee
11	27.08.93	<u>Sagar</u>	LA720831	Fiona Jackson
12	12.08.93	Tomlinson	LA720078	Ian Suthers
14	03.01.92	Collis	LA774795	Robert John Quick
16	23.08.93	Riches f	LA721318	Margaret Riches
17	05.11.93	Cerrotti	LA731770	Henry Lewis Gray and Kenneth Insley
18	30.09.94	Catto	LA748892	Roman Sitek
19	29.07.94	Ellis/ <u>Sagar</u>	LA742205	Jane Caroline Sagar
20	10.04.96	Pimm	LA796008	Walter Scott and Valerie Minns
21	03.03.95	Jacobs/Rix	LA755683	Charles Kenneth Jacobs and Jacqueline Louise Jacobs
22	14.06.96	Beswick	LA783383	Elizabeth Beswick
23	31.07.96	Nicholson	LA785727	Derek Brian Tomkins
24	11.01.95	<u>Duffy</u>	LA754653	Robin Tiffin and Sylvia Tiffin
25	21.12.95	Sturman	LA772666	John Hillyard and Dorothy Jean Hillyard
26	08.07.96	Duckett	LA784654	Elizabeth Barker
27/28	29.02.96	Langdon	LA776648	Vernon Williams and Maureen Williams
29	31.10.95	Sitek	LA770471	Vernon Williams and Maureen Williams
30	15.12.95	Dennis	LA772910	Nigel Alston and Pauline Alston
31	06.04.95	Candelet	LA757988	Graham Walsh
32	25.08.95	Proctor	LA769488	Barbara Broadbent

33	19.12.94	West	LA753844	Peter Terence West and Daphne West
34	26.07.96	Harris	LA784251	Kenneth McClellan and Angela McClellan
35	13.04.95	Boardman	LA757110	Marie Christine Boardman
36	11.06.96	Quick	LA782133	Robert John Quick
37	09.06.95	Roberts	LA767935	Vincent Adrian Roberts
38	16.02.96	Thwaites	LA775238	Pamela Reay Thwaites
39	01.06.95	Ford	LA763036	Paul Geoffrey Hewitt and Hazel Lee Hewitt
40	12.07.96	Brooks	LA783992	<u>Vincent Adrian Roberts and Enid Nerys Roberts</u>
41	11.08.95	Entwistle	LA65681	Barabara Jibson
42	04.04.96	Ewin	LA777969	David John Dobson and Janeth Zoe Fairbanks Dobson
43	25.04.95	Newell	LA768779	Robin Higgins
44	23.08.96	McCaffrey	LA786055	Christine Rose
45	12.10.95	<u>Duffy</u>	LA69601	Brian Wardman and Carole Wardman
46	13.12.95	Nichols	LA775968	William Robert Scott and Elda Maureen Scott
47	09.01.98	McEnery	LA815921	Neil Nicholson

## Appendix 2

### Specimen Deed of Variation

**DATED**

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**DEED OF VARIATION**

relating to

[ ] **LOW MILL, CATON, LANCASTER LANCASHIRE LA2 9HY**

between

[ ]

and

[ ]

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### SCHEDULE

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This deed is dated

**HM Land Registry**

**Landlord's title numbers: LA644786; LA644784; LA644785; LA602687; LA651393; LA665403; LA696237**

**Administrative area: Lancaster, Lancashire**

**Tenant's title number: [ ]**

**Administrative area: Lancaster, Lancashire**

**PARTIES**

- (1) **FINCHFIVE LOW MILL (CATON) LIMITED** incorporated and registered in England and Wales with company number 02658683 whose registered office is at 9 Low Mill, Caton, Lancaster LA2 9HY (**Landlord**).
- (2) [ ] of [ ] Low Mill, Caton, Lancaster Lancashire LA2 9HY (**Tenant**).

**BACKGROUND**

- (A) This deed is supplemental and collateral to the Lease.
- (B) The Landlord and the Tenant have agreed to vary the Lease on the terms set out in this deed.
- (C) The Landlord is entitled to the immediate reversion to the Lease.
- (D) The residue of the term granted by the Lease is vested in the Tenant.

**AGREED TERMS**

**1. INTERPRETATION**

The following definitions and rules of interpretation apply in this deed.

**1.1 Definitions:**

**Lease:** a lease of the Property dated 30 June 1994 and made between (1) Finchfive Limited and (2) Finchfive Low Mill (Caton) Limited and (3) Geoffrey John Yates and Angela Margaret Yates.

**Property:** [ ] Low Mill, Caton, Lancaster LA2 9HY as more particularly described in and demised by the Lease.

**1.2** References to the **Landlord** include a reference to the person entitled for the time being to the immediate reversion to the Lease. References to the **Tenant** include a reference to its respective successors in title and assigns.

**1.3** A reference to the Lease includes any deed, licence, consent, approval or other instrument supplemental to it.

- 1.4 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.5 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.6 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.7 Unless the context otherwise requires, a reference to the **Property** is to the whole and any part of it.
- 1.8 Except where a contrary intention appears, references to clauses and Schedules are to the clauses and Schedules of this deed and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.9 Clause, Schedule and paragraph headings shall not affect the interpretation of this deed.
- 1.10 Except to the extent that they are inconsistent with the definitions and interpretations in clause 1 of this deed, the definitions and interpretations in clause 1 of the Lease shall apply to this deed.

## **2. VARIATIONS OF THE LEASE**

### **2.1 Variations made**

From and including the date of this deed, the Lease shall be read and construed as varied by the provisions set out in the Schedule.

### **2.2 Lease remains in force**

The Lease shall remain fully effective as varied by this deed and the terms of the Lease shall have effect as though the provisions contained in this deed had been originally contained in the Lease.

## **3. TENANT'S COVENANT**

The Tenant covenants to observe and perform the tenant's covenants in the Lease as varied by this deed.

## **4. REGISTRATION OF THIS DEED**

### **4.1 Application for registration**



Promptly following the completion of this deed, the Tenant and the Landlord shall apply to register this deed at HM Land Registry against the Tenant's registered title number LA741344 and the Landlord's registered title numbers: LA644786; LA644784; LA644785; LA602687; LA651393; LA665403; LA696237.

**4.2 Requisitions**

The Tenant and the Landlord shall ensure that any requisitions raised by HM Land Registry in connection with an application for registration are dealt with promptly and properly.

**4.3 Official copies**

Within one month after completion of the registration, the Tenant and the Landlord shall send to the other official copies of the respective registered titles.

**5. COSTS**

- 5.1 On completion of this deed the Tenant shall pay the reasonable costs and disbursements of the Landlord and its solicitors in connection with this deed including any costs and disbursements incurred or to be incurred by the Landlord in registering this deed.

**6. GOVERNING LAW**

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

**7. JURISDICTION**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims).

**8. THIRD PARTY RIGHTS**

A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed. This does not affect any right or remedy of a third party which exists or is available apart from that Act.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

## **The Schedule**

## Variations to the Lease

### 1. REPLACEMENT OF EXISTING CLAUSES

Clauses 1.5, 1.7, 1.14, 1.16, 1.18, 3.9.1, 3.9.2, 5.1, 5.1.2, 6.1, 6.5 and Part 3 of the Fourth Schedule of the Lease shall be deleted and replaced by the clauses set out in the Appendix with corresponding clause numbers set out therein:

### 2. ADDITION OF NEW CLAUSES

The clauses 1.16.1, 1.18.1, 1.33, 1.34, 1.34.1, 1.35, 1.36, 1.37, 1.37.1, 1.38, 1.39, 1.40, 1.40.1, 1.41, 1.42, 3.42 and 6.6.5 as set out in the Appendix shall be added to the Lease as new clauses:

### 3. AMENDMENT OF EXISTING CLAUSES

Clause 3.1 shall be amended as set out in the Appendix

## APPENDIX

### 1. Definitions and Interpretation

1.5.1 **“The Building”**: means the former mill building erected on the part of the Estate comprised of Units 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27/28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46 and 47 Low Mill, Caton.

1.5.2 **“The Houses”**: means the houses forming part of the Estate being Units 1, 2, 3, 4, 5, 6, 7, 8, 9 and 15.

1.7 **“The Additional Rent”**: means the Tenant’s proportion of the cost of any premium (including any insurance premium tax) that the Landlord expends and any fees and other expenses that the Landlord reasonably incurs in effecting and maintaining insurance of the Building and the Estate in accordance with the obligations contained in this lease at clause 5.1.1 and 6.5, including any professional fees for carrying out such insurance valuation on reinstatement value (the Tenant’s Insurance Costs Proportion).

1.14 **“Open Areas”**: means the communal garden and any part of the Estate not covered by buildings including the roadways and pavements.

1.16 **“The Exterior Common Parts”**: means the exterior parts of the Building that are not part of the Premises or the Units used in common by the Tenant with the other tenants of other Units within the Building including but not limited to the main structure of the Building (including the roof and roof structure, the foundations, the external walls and load bearing walls, the structural timbers, the joists, the service media and conduits at the Building which are not exclusively services and conduits of either the Premises or the Units).

1.16.1 **“The Exterior Flats”**: means the flats forming part of the Building and having an entrance door to the Exterior Common Parts but no entrance door from the Interior Common Parts being Units 10, 11, 12, 14, 16 and 17.

1.16.2 **“The Interior Common Parts”**: means the entrance door to the Building the entrance hall, landings, passages and lifts, storage cupboards and other interior parts of the Building that are not part of the Premises or the Units used in common by the Tenant with the other tenants of the other Units within the Building including but not limited to the interior main structure of the Building, the internal load bearing walls, the interior structural timbers and the internal joists.

1.16.3 **“The Interior Flats”**: means the flats in the Building and having an entrance door to the Interior Common Parts being Units 18, 19, 20, 21, 22, 23, 24, 25, 26, 27/28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46 and 47.

1.18 **“The Interior Service Charge”**: shall mean the Tenant’s Estate Service Cost Proportion and the Tenant’s Interior Flat Service Cost Proportion and the Tenant’s Insurance Cost Proportion.

1.18.1 **“The Exterior Service Charge”**: shall mean the Tenant’s Estate Service Cost Proportion and the Tenant’s Exterior Flat Service Cost Proportion and the Tenant’s Insurance Cost Proportion.

1.18.2 **“The Service Charge”**: shall mean the Interior Service Charge or the Exterior Service Charge as the case may be the Tenant’s Insurance Cost Proportion and the Estate Service Costs or any of them

1.33 **“The Tenant’s Estate Service Cost Proportion”**: is  $\frac{1}{45th}$  of the Estate Service Cost in relation to the Estate Services being an equal proportion of the Estate Service Cost payable by the Interior Flats, the Exterior Flats and the Houses.

1.34 **“The Tenant’s Interior Flat Service Cost Proportion”**: is  $\frac{1}{29th}$  of the Interior Flat Service Cost in relation to the Interior Flat Services being an equal proportion of the Interior Flat Service Cost payable by the Interior Flats.

1.34.1 **“The Tenant’s Exterior Flat Service Cost Proportion”**: is  $\frac{1}{35th}$  of the Exterior Flat Service Cost in relation to the Exterior Flat Services being an equal proportion of the Exterior Flat Service Cost payable by the Exterior Flats and the Interior Flats.

1.35 **“The Tenant’s Insurance Cost Proportion”**: is the Rent of  $\frac{1}{45th}$  of the total cost incurred by the Landlord in respect of the insurance of the Retained Parts as detailed as clause 5.1 and 6.5 of the lease divided equally between the total number of Units on

the Estate (being the Interior Flats, Exterior Flats and Houses) and  $\frac{1}{35th}$  of the total cost incurred by the Landlord in respect of the insurance of the Building as detailed in clause 5.1 and 6.5 of the this lease divided equally between the Interior Flats and Exterior Flats in the Building .

1.36 “**The Services**”: shall mean the Estate Services and the Interior Flat Services and the Exterior Flat Services or any of them as the case may be.

1.37 “**The Interior Flat Service Cost**”: is the total cost of providing the Interior Flat Services.

1.37.1 “**The Exterior Flat Service Cost**”: is the total cost of providing the Exterior Flat Services.

1.38 “**The Estate Service Cost**”: is the total cost of providing the Estate Services.

1.39 “**The Estate Services**”: are the services to be provided by the Landlord in clause 5 and 6 and Part 3 (a) and (b) of the Fourth Schedule.

1.40 “**Interior Flat Services**”: are the services to be provided by the Landlord in relation to the Interior Flats and listed in clause 5 and 6 and Part 3 (c) and (d) of the Fourth Schedule.

1.40.1 “**Exterior Flat Services**”: are the services to be provided by the Landlord in relation to the Exterior Flats and listed in clause 5 and 6 and Part 3 (e) and (f) of the Fourth Schedule.

1.41 “**The Retained Parts**”: is Open Areas and the grounds, parking areas, landscaped areas and sewerage pumping station, bund associated storage tank, the cycle store, the bin store, the colonnade, the dovecote, the road and paths within the Estate, external lighting and water pipes, drains, sewers, cables and conduits, wires, aerials and internal telephone wires in or under or upon the Estate enjoyed and used in common with other occupiers to the point of connection with the statutory service provider and all boundary walls, fences and railings of the Estate.

1.42 “**Unit**”: any premises forming part of the Estate that are capable of being occupied as a single private dwelling (except the Premises and the Retained Parts).

### Clause 3

3.1 To pay

- (a) the Rent
- (b) the Additional Rent
- (c) the Interior Service Charge if applicable
- (d) the Exterior Service Charge if applicable
- (e) the Tenant's Estate Service Cost Proportion

on the day and in the manner set out in this Underlease and not to exercise, or seek to exercise, any right or claim to withhold the Rent or the Service Charge

3.9.1 To pay the estimated Service Charge for each Service Charge year in accordance with clause 3.9.2.2

3.9.2.1 If, in respect of any Service Charge year, the company's estimate of Service Charge is less than the Service Charge, the Tenant shall pay the difference within fourteen days of written demand. If, in respect of any Service Charge year the Landlord's estimate of the Service Charge is more than the Service Charge as finally determined, the Landlord shall refund the difference in accordance with clause 3.9.4.

3.9.2.2 The Tenant's Interior Flat Service Cost Proportion and the Tenant's Exterior Flat Service Cost Proportion and the Tenant's Estate Service Cost Proportion and the Tenant's Insurance Cost Proportion (as applicable) shall be payable by the Tenant by two equal instalments on the 1<sup>st</sup> January and 1<sup>st</sup> July of each year.

3.42 Not to decorate the exterior of the Premises in any way.

## **Clause 5**

5.1 The Landlord shall:

5.1.1 At all times during the Term (unless such insurance is vitiated by any act or default of either the Company or the Tenant) insure the Building and the Retained Parts of the Estate against loss or damage by the Insured Risks and keep the Building and the Retained Parts and the Estate so insured in the name of the Landlord in the joint names of the Landlord and the Company and any other interested parties with an Insurance Company of repute for such sums as the Landlord shall reasonably consider adequate to cover the cost of rebuilding works including demolition Architects and Surveyors fees and third party and property owners liability; and

5.1.2 Wherever reasonably required by the Tenant produce at their cost a copy of the summary and extract of the insurance policy (upon which shall be noted the interests of the Tenant)

and the Tenant shall within fourteen days of written demand reimburse the Landlord the Tenant's Insurance Cost Proportion and shall not by any act or omission cause the

Landlord's insurance to be rendered void or voidable or affect any further insurance policies other than in accordance with their obligations under this Lease.

**Clause 6**

6. The Landlord covenants with the Tenant to provide the Services in relation to the Estate Services and Interior Flat Services and Exterior Flat Services.

6.5 To insure the Common Parts and the Retained Parts in accordance with the provisions of the lease against third party public and employers liability in respect of the Common Parts and the provision of services and to insure and keep insured to the full reinstatement cost all plant and machinery serving the Building against the risks of breakdown accidental damage explosion or collapse and to provide for periodical inspection of such plant and machinery

6.6.5 In every fifth year to paint, seal and otherwise treat all exterior wood and ironwork of the Building (including but not limited to the Premises and Units) windows and doors with good quality paint to British Standards (as from time to time as amended) or other suitable material of good quality.

**Delete existing Part 3 and replace with:-**

#### **FOURTH SCHEDULE**

##### **Part 3(a) The Estate Services**

The Estate Services are:

- (a) cleaning, maintaining, decorating, repairing and replacing the Retained Parts and remedying any inherent defect;
- (b) lighting the Retained Parts and cleaning, maintaining, repairing and replacing lighting, machinery and equipment on the Retained Parts;
- (c) cleaning, maintaining, repairing and replacing the furniture, fittings and equipment in the Retained Parts;
- (d) cleaning, maintaining, repairing, operating and replacing security machinery and equipment (including closed circuit television) on the Retained Parts;
- (e) cleaning, maintaining, repairing, operating and replacing fire prevention, detection and fighting machinery and equipment and fire alarms on the Retained Parts;
- (f) cleaning, maintaining, repairing and replacing refuse bins;
- (g) cleaning, maintaining, repairing and replacing signage for the Retained Parts;
- (h) maintaining any landscaped and grassed areas of the Retained Parts;
- (i) any other service or amenity that the Landlord may in its reasonable discretion (acting in accordance with the principles of good estate management) provide for the benefit of the tenants and occupiers of the Estate.

##### **Part 3(b) Estate Service Costs**

The Estate Service Costs are the total of:

- (a) all of the costs reasonably and properly incurred or estimated by the Landlord of:
  - (i) providing the Estate Services;
  - (ii) the supply and removal of electricity, gas, water, sewage and other utilities to and from the Retained Parts;
  - (iii) complying with the recommendations and requirements of the insurers of the Building (insofar as those recommendations and requirements relate to the Retained Parts);



- (iv) complying with all laws relating to the Retained Parts, their use and any works carried out at them, and relating to any materials kept at or disposed of from the Retained Parts;
  - (v) complying with the Third Party Rights insofar as they relate to the Retained Parts;
  - (vi) putting aside such sum as shall reasonably be considered necessary by the Landlord (whose decision shall be final as to questions of fact) to provide reserves or sinking funds for items of future expenditure to be or expected to be incurred at any time in connection with providing the Estate Services; and
  - (vii) taking any steps (including proceedings) that the Landlord considers necessary to prevent or remove any encroachment over the Retained Parts or to prevent the acquisition of any right over the Retained Parts or to remove any obstruction to the flow of light or air to the Retained Parts;
- (b) the costs, fees and disbursements reasonably and properly incurred of:
- (i) managing agents employed by the Landlord for the carrying out and provision of the Estate Services or, where managing agents are not employed, a management fee for the same;
  - (ii) accountants employed by the Landlord to prepare and audit the service charge accounts; and
  - (iii) any other person reasonably and properly retained by the Landlord to act on their behalf in connection with the Building or the provision of Estate Services.
- (c) all rates, taxes and impositions payable in respect of the Retained Parts, their use and any works carried out on them; and
- (d) any VAT payable by the Landlord in respect of any of the items mentioned above except to the extent that the Landlord is able to recover such VAT.

### **Part 3(c) The Interior Flat Services**

The Interior Flat Services are:

- (e) providing heating to the internal areas of the Interior Common Parts during such periods of the year as the Landlord reasonably considers appropriate, and cleaning, maintaining, repairing and replacing the heating machinery and equipment;
- (f) decorating and maintaining the Interior Common Parts
- (g) lighting the Interior Common Parts and cleaning, maintaining, repairing and replacing lighting, machinery and equipment on the Interior Common Parts;
- (h) cleaning, maintaining, repairing and replacing the furniture, fittings and equipment in the Interior Common Parts;
- (i) cleaning, maintaining, repairing and replacing the lifts and lift machinery and equipment on the Interior Common Parts;
- (j) cleaning, maintaining, repairing, operating and replacing security machinery and equipment (including closed circuit television) on the Interior Common Parts;
- (k) cleaning, maintaining, repairing, operating and replacing fire prevention, detection and fighting machinery and equipment and fire alarms on the Interior Common Parts;
- (l) cleaning the outside of the windows of the Interior Common Parts;
- (m) cleaning, maintaining, repairing and replacing exterior signage for the Interior Common Parts;
- (n) cleaning, maintaining, repairing and replacing the floor coverings on the internal areas of the Interior Common Parts;
- (o) any other service or amenity that the Landlord may in its reasonable discretion (acting in accordance with the principles of good estate management) provide for the benefit of the tenants and occupiers of the Building.

### **3(d) Interior Flat Service Costs**

The Interior Flat Service Costs are the total of:

- (p) all of the costs reasonably and properly incurred or estimated by the Landlord of:
  - (i) providing the Interior Flat Services;
  - (ii) the supply and removal of electricity, gas, water, sewage and other utilities to and from the Interior Common Parts;
  - (iii) complying with the recommendations and requirements of the insurers of the Building (insofar as those recommendations and requirements relate to the Interior Common Parts);

- (iv) complying with all laws relating to the Interior Common Parts, their use and any works carried out at them, and relating to any materials kept at or disposed of from the Interior Common Parts;
  - (v) complying with the Third Party Rights insofar as they relate to the Interior Common Parts;
  - (vi) putting aside such sum as shall reasonably be considered necessary by the Landlord (whose decision shall be final as to questions of fact) to provide reserves or sinking funds for items of future expenditure to be or expected to be incurred at any time in connection with providing the Interior Flat Services; and
  - (vii) taking any steps (including proceedings) that the Landlord considers necessary to prevent or remove any encroachment over the Interior Common Parts or to prevent the acquisition of any right over the Interior Common Parts (or the Building as a whole) or to remove any obstruction to the flow of light or air to the Interior Common Parts (or the Building as a whole);
- (q) the costs, fees and disbursements reasonably and properly incurred of:
- (i) managing agents employed by the Landlord for the carrying out and provision of the Interior Flat Services or, where managing agents are not employed, a management fee for the same;
  - (ii) accountants employed by the Landlord to prepare and audit the service charge accounts; and
  - (iii) any other person reasonably and properly retained by the Landlord to act on their behalf in connection with the Building or the provision of Interior Flat Services.
- (r) all rates, taxes and impositions payable in respect of the Interior Common Parts, their use and any works carried out on them (other than any taxes payable by the Landlord in connection with any dealing with or disposition of its reversionary interest in the Building); and
- (s) any VAT payable by the Landlord in respect of any of the items mentioned above except to the extent that the Landlord is able to recover such VAT.

### **Part 3(e) The Exterior Flat Services**

The Exterior Flat Services are:

- (t) decorating and maintaining the Exterior Common Parts
- (u) cleaning, maintaining, repairing, operating and replacing security machinery and equipment (including closed circuit television) on the Exterior Common Parts;
- (v) cleaning the outside of the windows of the Exterior Common Parts;
- (w) any other service or amenity that the Landlord may in its reasonable discretion (acting in accordance with the principles of good estate management) provide for the benefit of the tenants and occupiers of the Building.

### **3(f) Exterior Flat Service Costs**

The Exterior Flat Service Costs are the total of:

- (x) all of the costs reasonably and properly incurred or estimated by the Landlord of:
  - (i) providing the Exterior Flat Services;
  - (ii) the supply and removal of electricity, gas, water, sewage and other utilities to and from the Exterior Common Parts;
  - (iii) complying with the recommendations and requirements of the insurers of the Building (insofar as those recommendations and requirements relate to the Exterior Common Parts);
  - (iv) complying with all laws relating to the Exterior Common Parts, their use and any works carried out at them, and relating to any materials kept at or disposed of from the Exterior Common Parts;
  - (v) complying with the Third Party Rights insofar as they relate to the Exterior Common Parts;
  - (vi) putting aside such sum as shall reasonably be considered necessary by the Landlord (whose decision shall be final as to questions of fact) to provide reserves or sinking funds for items of future expenditure to be or expected to be incurred at any time in connection with providing the Exterior Flat Services; and
  - (vii) taking any steps (including proceedings) that the Landlord considers necessary to prevent or remove any encroachment over the Exterior Common Parts or to prevent the acquisition of any right over the Exterior Common Parts (or the Building as a whole) or to remove any obstruction to the flow of light or air to the Exterior Common Parts (or the Building as a whole);
- (y) the costs, fees and disbursements reasonably and properly incurred of:

- (i) managing agents employed by the Landlord for the carrying out and provision of the Exterior Flat Services or, where managing agents are not employed, a management fee for the same;
  - (ii) accountants employed by the Landlord to prepare and audit the service charge accounts; and
  - (iii) any other person reasonably and properly retained by the Landlord to act on their behalf in connection with the Building or the provision of Exterior Flat Services.
- (z) all rates, taxes and impositions payable in respect of the Exterior Common Parts, their use and any works carried out on them (other than any taxes payable by the Landlord in connection with any dealing with or disposition of its reversionary interest in the Building); and
- (aa) any VAT payable by the Landlord in respect of any of the items mentioned above except to the extent that the Landlord is able to recover such VAT.



Executed as a deed by

.....

SIGNATURE OF TENANT

in the presence of:

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SIGNATURE OF WITNESS

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NAME, ADDRESS AND OCCUPATION OF  
WITNESS