

SCHEME

made pursuant to Section 19
THE LEASEHOLD REFORM ACT OF 1967
for the management of

**THE CALTHORPE ESTATE,
EDGBASTON, BIRMINGHAM.**

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Interpretation and Introductory

Definitions

1. In this scheme the following expressions have the following meanings unless the context otherwise requires:

Expression

Meaning

The Landlords

Dame Nancy Moireach Anstruther-Gough-Calthorpe The Right Honourable Ian St. John Baron Luke of Pavenham William Herbert Harrison and The Honourable Granville Charles Gomer Gordon (commonly called the Earl of Aboyne) or other the trustees or trustee for the time being of a Settlement dated the 4th February 1959 and made between Niall Hamilton Anstruther-Gough - Calthorpe of the one part and Sir Richard Hamilton Anmuther-Gough-Calthorpe the said Right Honourable Ian St. John Baron Luke of Pavenham and the said William Herbert Harrison of the other part.

The Estate

The lands and buildings shown surrounded by a black line on the plan annexed hereto and marked "Estate Plan" and known as the Calthorpe Estate Edgbaston in the City of Birmingham

The Landlords' Agent

The person appointed by the Landlords as their Agent for the time being for the purposes of this Scheme

Original Transfer

The Transfer whereby the freehold interest in any property comprised in the Estate shall have been acquired from the Landlords by any other person

Enfranchised property

Any property forming part of the Estate of which the freehold shall have been acquired from the Landlords by any other person (whether or not in exercise of any right under the Leasehold Reform Act 1967) including any dwellinghouse buildings and erections for the time being comprised therein

The Owner

The person for the time being entitled to the freehold interest in an enfranchised property and including (unless the context otherwise require) any other person from time to time occupying or interested in such enfranchised property)

The former long tenancy

The long tenancy (as defined by Section 3 of the Leasehold Reform Act 1967) if any formerly vested in the Owner or a predecessor-in-title of his

Interpretation

2. In this Scheme where the context so admits

(I) The singular includes the plural and vice versa

(2) The masculine includes the feminine

(3) "Person" includes "Corporation"

(4) Where the Owner comprises two or more persons the obligations hereby imposed on the Owner shall be joint and several obligations

**Table of contents
marginal notes and
cross headings**

3. The Table of Contents to this Scheme and the marginal notes and cross headings in this Scheme are for convenience of reference only and shall not affect the interpretation or construction of this Scheme

Application of Scheme

4. The Landlords shall have the powers of management and rights against all of the enfranchised properties comprised in the Estate contained in the following provisions of this Scheme which shall be binding upon the Owner of every enfranchised property and his successors in title

Maintenance obligations of Owner

Repair

5. The Owner shall at all times repair and keep in good and substantial repair order and condition the exterior and the internal structural parts of the enfranchised property and every part thereof (including the boundary walls and fences belonging thereto) Provided that this Clause shall not apply to any part of the enfranchised property or respect of which the Owner is for the time being under an obligation to pay or contribute to the costs and expenses of repair incurred or the estimated costs and expenses of repair to be incurred by the Landlords or any other person under Clause 30 hereof

Paint outside

6. (1) The Owner shall at all times keep properly painted in a good and workmanlike manner all the wood iron stone and other work which ought usually to be painted on the outside of the enfranchised property and (without prejudice to the generality of the foregoing) shall in any event paint the same in such manner with two coats at least of best quality exterior paint before the expiration of six years from the date of the Original Transfer and once in every six years thereafter Provided that this clause shall not apply to any part of the enfranchised property in respect of which the Owner is for the time being under an obligation to pay or contribute to the costs and expenses of outside painting incurred or the estimated costs and expenses of outside painting to be incurred by the Landlords or any other person under Clause 30 hereof

- (2) (i) If the Original Transfer contains a declaration that the provisions of this sub-clause shall apply the outside portions of the dwellinghouse and garage (if any) comprised in the enfranchised property shall not be painted in a colour or colours different from that or those in which the same were last previously painted except with the prior consent in writing of the Landlords or Landlords' Agent such consent not to be unreasonably withheld
- (ii) The Original Transfer shall contain such declaration if (but only if) the former long tenancy contained a provision under which the tenant was required to obtain the approval in writing of the Landlords or the Landlords' Agent to the colour or colours or any change in the colour or colours in which such outside portions of the enfranchised property or any part thereof should be painted

Cultivate Garden

7. The Owner shall at all times cultivate and keep free from weeds the gardens of the enfranchised property and give seasonal and appropriate attention to every part thereof and shall also keep all yards paths and areas thereof free from litter and refuse and in a clean and tidy condition

Comply with notice to repair etc.

8. The Owner shall permit the Landlords or the Landlord' Agent with or without workmen and others upon not less than three days notice in writing at any convenient hours in the daytime to enter into and upon the enfranchised property or any buildings thereon to view the state of the external repair or the internal structural repair thereof and shall upon notice in writing being given by the Landlords or the Landlords' Agent to perform all or any of the obligations in Clauses 5 6 and 7 hereof forthwith comply with the same and if the Owner shall not within two months after the service of such notice proceed diligently to comply with the requirements of such notice then the Owner shall permit the Landlords or the Landlords' Agent with workmen and appliances to enter upon the enfranchised property and cause such works and things to be executed and done as are necessary to secure compliance with the notice and the costs of such works and things shall repayable by the Owner to the Landlords

Regulation of use

- Private residence only** 9. (1) The Owner shall not without the previous consent in writing of

the Landlords or the Landlords' Agent occupy or use or permit or suffer to be occupied or used the enfranchised property in any manner other than as a private residence of a single family only or for such other purpose as shall permitted under the terms of the Original Transfer

Provided always:-

(i) There shall included in the terms of the Original Transfer as a permitted purpose under this Clause any other use which is permitted by the terms of the former long tenancy or any written license previously granted by or on half of the Landlords or any predecessor in title of them or for which the enfranchised property is being used at the date of the Original Transfer with the acquiescence of the Landlords

(ii) No fine or sum of money in the nature of a fine shall payable for such consent of the Landlords but so that this proviso shall not preclude the right of the Landlords to require payment of a reasonable sum in respect of any damage or diminution in the value or any neighbouring premises belonging to them and of any legal or other expenses incurred in connection with such consent

(2) The Owner shall permit the Landlords or the Landlords' Agent or their servants or agents at any convenient hours in the daytime to enter into and upon the enfranchised property and any part thereof to inspect and ascertain the user thereof

Nuisance

10. The Owner shall not use or permit or suffer the enfranchised property or any part thereof to be used for any illegal immoral or improper purpose and shall not permit or suffer on the enfranchised property or any part thereof any act or thing which shall or may be or become a nuisance damage annoyance or inconvenience to the Landlords or to the owners lessees or occupiers of any neighbouring house or land

Not to vitiate Insurance

11. The Owner shall not do or permit or suffer to be done any act or thing by reason or in consequence whereof any increased or extra premium may become payable for the insurance of any premises adjoining the enfranchised property or whereby the renewal of any policy relating to the enfranchised property or such adjoining premises shall be refused or whereby such policy shall become void or voidable

Not to display advertisements

12. The Owner shall not exhibit or permit or suffer to be exhibited any notice advertisement name plate or placard of any kind upon the enfranchised property or any part thereof so as to be visible to the public except
- (i) Such as shall have been previously approved in writing by the Landlords or the Landlords' Agent
 - (ii) Usual sign boards indicating the enfranchised property is for sale or to let and
 - (iii) Notices relating to a forthcoming non-commercial function or event exhibited for a period not exceeding three weeks

External aerials

13. The Owner shall not erect or maintain or permit or suffer to be erected or maintained on any part of the enfranchised property any external television wireless or other aerial except of such type and in such position and for such period as shall have been previously approved in writing by the Landlords or the Landlords' Agent such approval not to be unreasonably withheld

Parking

14. (1) The Owner shall not park or permit or suffer to be parked or left (otherwise than for short periods and for a temporary purpose) any motor car motor van motor cycle or other form of motorised road transport on any part of the enfranchised property except in a garage or carport comprised therein save with the previous consent in writing of the Landlords or the Landlords' Agent such consent not to be unreasonably withheld
- (2) The Owner shall not park or permit or suffer to be parked or left (other than for short periods and for a temporary purpose) any caravan horse-box trailer boat or other like chattel on any part of the enfranchised property except in such place and in such manner so as not to be visible from beyond the boundaries or the enfranchised property

Animals

15. The Owner shall not keep or permit or suffer to be kept on the enfranchised property or any part thereof:-
- (i) Any chickens ducks geese or other live poultry or
 - (ii) Any other animal which shall be or become a nuisance or annoyance to the Landlords or the occupants of any of the neighbouring properties

Not to hang washings on Sundays

16. The Owner shall not hang or lay out washing to dry on any part of the enfranchised property on Sundays so as to be visible from the ground floor windows or adjoining or neighbouring premises

Regulation of Development

No alterations or additions without consent

17. The Owner shall not without the previous consent in writing of the Landlords or the Landlords' Agent such consent not to be unreasonably withheld erect any further building or erection on the enfranchised property or any part thereof or make any structural alterations or additions to the existing dwellinghouse and buildings and erections thereon or cut or main or injure any of the main structural walls or timbers

Redevelop only in accordance with Landlords' plans

18. Without prejudice to the generality of the last foregoing Clause of this Scheme the Owner shall not redevelop the enfranchised property or any part thereof nor reconstruct any building for the time being comprised therein nor erect any further building or structure thereon except

(i) in manner approved by the landlords or the Landlords' Agent and so as to comply and be consistent with any plans or proposals of the Landlords relating to an area of the Estate of which the enfranchised property forms part and

(ii) at such times as to commencement and completion of such works as shall be consistent with such plans or proposals of the Landlords and any programme for carrying out the same

Plans of proposed alterations or additions

19. The Owner shall on making application for any such consent as aforesaid (and before commencing the rebuilding or reinstatement of the enfranchised property or any part thereof after destruction or damage) submit to the Landlords or the Landlords' Agent such plans block plans elevations and specifications as the Landlords or the Landlords' Agent shall require with duplicates for retention and shall rebuild or reinstate only in accordance with such plans block plans elevations and specifications as the Landlords or the Landlords' Agent shall approve in writing making use of good sound and substantial materials all of which shall be subject to inspection and approval by the Landlords or the Landlords' Agent

Pay Landlords' costs

20. (1) On any application for any such consent as aforesaid (whether or not such consent is given) the Owner shall pay to the Landlords on demand in respect of the perusal and consideration of such application and the documents submitted therewith in

accordance with the provisions of the last forgoing clause by the Landlords' Agent or any surveyor employed by the Landlords the appropriate scale fee calculated in accordance with Scale 28 of the scale of fees issued by the Royal Institution of Chartered Surveyors for the time being current or such other relevant scale for the time being applicable or if there be no such scale a reasonable fee

- (2) The Landlords shall also be entitled to require as a condition of such consent the payment of a further reasonable sum in respect of architectural legal or other expenses properly incurred in connection therewith (including expenses incurred in connection with the inspection and approval of any works done in pursuance of such consent)

Adjoining properties etc.

Contribute to common expenses 21. The Owner shall pay a fair proportion (to be assessed in case of dispute by the Landlords or the Landlords' Agent) of all expenses of reconstructing repairing rebuilding and cleansing and keeping in good order all party walls and fences sewers drains roads pathways and other things the use of which is common to the enfranchised property and to adjoining or neighbouring property

Repair of adjoining properties 22. (1) The Owner shall permit the landlords or the Landlords' Agent or the owners lessees and tenants of any adjoining property with workmen and appliances upon not less than three days notice in writing (except in the case of emergency) at any convenient hours in the daytime to enter into and upon the enfranchised property for the purpose of executing repairs to such adjoining property the Landlords or the owners or tenants (as the case may be) making good all damage thereby occasioned to the enfranchised property

- (2) So far only as the Landlords have power so to do (and not further or otherwise) the Landlords shall permit the Owner with workmen and appliances upon not less than three days notice in writing (except in the case of emergency) at any convenient hours in the daytime to enter into and upon any adjoining property for the purpose of executing repairs to the enfranchised property the Owner making good all damage thereby occasioned to such adjoining property

Contribute to expense of maintaining private road 23. If the enfranchised property or any part thereof is served by a private road not comprised therein the Owner shall pay to the Landlords on demand a fair proportion (as to which the certificate of

the Landlords' Agent shall be conclusive)of the moneys actually expended by the Landlords in keeping such private road on good repair and condition

Trees

Not to cut trees

24. (1) Subject to the provisions or sub-clause (2) hereof and of Clause 25 of this Scheme the Owner shall not lop top or cut bad. the roots of or fell and grub up the roots of or otherwise damage or interfere with any trees except fruit trees situate in on or over the enfranchised property (whether or not the same shall be comprised in the enfranchised property and in the ownership of the Owner) or in on or over any other part of the Estate
- (2) Provided that the provisions of this Clause and of Clause 25 shall not apply to any tree which is for the time being comprised in any Tree Preservation Order made under Section 60 of the Town and Country Planning Act 1971 or any statutory modification or re-enactment thereof

To cut trees under supervision of Landlords

25. (1) The Owner shall nevertheless lop top and cut back cheroots of or fell and grub up the roots of all such trees as may be necessary from time to time in the proper management of the enfranchised property or to prevent nuisance annoyance or damage to an} adjoining or neighbouring property or the owner tenant or occupier thereof

PROVIOED THAT

- (i) No such work (except in the case of extreme emergency) shall be carried out without the previous consent in writing of the Landlords or the Landlords' Agent (such consent to be given refused or withdrawn at their absolute discretion)
- (ii) All such work shall be carried out by the Owner as his own expense in all things in accordance with the directions or the Landlords or the Landlords' Agent and completed to their reasonable satisfaction
- (iii) On any occasion when the Landlords shall give consent and give directions as to such works the Owner shall pay to the Landlords on demand a reasonable sum (being not less than Three pounds) in respect of the expenses of the Landlords incurred in connection therewith

- (2) In the event of:-

- (i) The Landlords or the Landlords' Agent having refused or withdrawn consent to any such work to any tree
- (ii) Within the period of one year from the date of any such refusal or withdrawal of consent or within such longer period while a further or renewed application (made during that year) for consent to such work remains outstanding pending a decision on the part of the Landlords or the Landlords' Agent such tree or any part thereof shall cause bodily injury or physical damage to any person property or thing
- (iii) Such bodily injury or physical damage would not have occurred if such work had been carried out and
- (iv) No work or injury or damage to or interference with such tree causing or contributing to such bodily injury or physical damage shall have been done by the Owner or another person (with or without the consent of the Owner) during that period

then and in such case the Landlords

- (a) shall compensate the Owner for any bodily injury or physical damage to him or to the enfranchised property to any property or thing belonging to him and
 - (b) (if the Owner shall comply with and fulfil all the conditions specified in the next following sub-clause hereof) shall indemnify the Owner from and against all actions proceedings costs claims and demands by third parties arising out of such bodily injury or physical damage
- (3) The conditions mentioned under (b) in the last foregoing sub-clause hereof are:-
- (i) the Owner shall as soon as possible after the occurrence of any such bodily injury or physical damage give notice in writing thereof to the Landlords or the Landlords Agent
 - (ii) the Owner shall forward to the Landlords or the Landlords' Agent a copy of every letter claim writ summons and process received by or served on him forthwith after receipt or service
 - (iii) the Owner shall not make any admission offer promise

payment or indemnity except with the prior written consent of the Landlords or the Landlords' Agent and

- (iv) the Landlords shall be entitled to take over and conduct in the name or the Owner (but at the sole cost and expense of the Landlords) the defense or settlement or any action proceedings claim or demand and shall have full discretion and control in the conduct thereof and the Owner shall give all such information and assistance as the Landlords or the Landlords' Agent shall require

Insurance

Owner to Insure

26. (1) The Owner shall at all times keep the enfranchised property insured in the full value thereof against loss or damage by fire explosion storm or tempest with insurers of repute and whenever required produce to the Landlords or the Landlords' Agent the policy and receipt for the last premium in respect of such insurance
- (2) In event of the destruction of or damage to the enfranchised property or any part thereof by fire or other risk covered by such insurance the owner shall forthwith lay out the moneys received in respect thereof in rebuilding or reinstating the enfranchised property as previously erected or in such other manner shall be reasonable in all the circumstances and have previously been approved by the Landlords or the Landlords' Agent such approval not to be unreasonably withheld and if such moneys be insufficient for such purpose the Owner shall make good the deficiency

Notice to landlords

Notice to devolution of title

27. The Owner shall within thirty days of the making or every transfer assent lease or tenancy agreement (except a lease or tenancy agreement for a term not exceeding twenty one years at a rack rent taking effect in possession or a lease by way of charge) of the enfranchised property or any part thereof or of any mortgagee of the same entering into possession or selling or foreclosing or of any death or other event resulting in a devolution of the same give notice of such transfer assent lease act or event with full particulars thereof to the Landlords or the Landlords' Solicitors and (if so required) produce a photographic or certified copy of every instrument of transfer assent lease or tenancy agreement and any grant of probate or letters of administration order of the court or other relevant document affecting the title to the enfranchised

property or any part thereof for registration And shall at the same time pay to the Landlords or the Landlords' Solicitors a reasonable sum (being not less than Three pounds) in respect of any such notice perusal of documents and registration

Notices etc. affecting enfranchised property

28. The Owner shall give notice forthwith to the Landlords or the Landlords' Agent of any notice or order or proposal for a notice or order served under any Statute Order Regulation or Bye-Law on the Owner or any tenant or occupier of the enfranchised property or any part thereof and (if so required by the Landlords or the Landlords' Agent) produce the same for inspection

Notice of planning applications relating to enfranchised property

29. The Owner shall give to the Landlords or the Landlords' Agent notice of any application for planning permission under the Town and Country Planning Act 1971 or any statutory modification or re-enactment thereof made by the Owner or any other person in relation to the enfranchised property or any part thereof immediately after such application has been made and (if so required by the Landlords or the Landlord' Agent) produce a copy of the same for inspection and furnish all information as to the granting or refusal of such permission and as to any appeals or other matters or things arising in consequence of the application

Financial provisions

Contribution to common expenses

30. (1) In the event of there being any provisions in the former long tenancy of an enfranchised property under which the tenant was required to pay or contribute to the costs and expenses incurred or the estimated costs and expenses to be incurred by the Landlords or by any other person in relation to the matters specified in sub-clause (2) of this Clause then notwithstanding the acquisition of the freehold of the enfranchised property all such provisions shall by virtue of this Scheme remain in full force and effect and shall bind the enfranchised property and 'the Owner thereof for the time being in perpetuity

(2) The matters referred to in this Clause are:-

(i) The provision of any services for or the maintenance repair renewal reinstatement rebuilding or decoration of any area of which the enfranchised property form part and the roads footpaths carparks forecourts garages lawns gardens boundary walls entrances fences gates sewers drains pipes wires cables and other things in such area used or enjoyed in common

- (ii) The provision of any services for or the maintenance repair renewal reinstatement rebuilding or decoration of the enfranchised property or any part thereof
 - (iii) The management of any such area
- (3) Provided Always that if the Landlords shall serve on the Owner a notice in writing stating that the Landlords or such other person do not in the future intend to provide for any one or more of the matters specified in sub-clause (2) of this Clause then immediately after the date of service of such notice this Clause shall cease to be applicable in relation to such one or more matters mentioned therein (but otherwise shall continue to be of full force and effect)

Management charge

- 31.** (1) The Owner shall pay to the landlords on the 31st day of December in every year (being not less than one complete year after the date of the Original Transfer) in respect of the year ending on that date the sum of Four pounds twenty pence (or such greater sum as hereinafter provided) towards the provision or maintenance by the Landlords of services facilities and amenities in the Estate including the administration of this Scheme
- (2) In this Clause "the Index" means the Index of Retail Prices published by Her Majesty's Stationer- Office or any official publication substituted therefor
- (3) The Landlords may by notice on writing given to the Owner on or before the 31st day of December in any year direct that the sum payable in respect of that year shall be such other sum greater than Four pounds twenty pence as the Landlords shall specify Provided that such sum shall not exceed the greater of:-
- (i) sum payable hereunder in respect of the immediately preceding year and
 - (ii) such sum (to the nearest penny) as shall be equal to the sum of £4.20 multiplied by the fraction $X/£185.4$ where X is the figure shown on the Index for the month of October immediately preceding the 31st day of December (the figure £185.4 being the figure shown therein for the month of October 1973)
- (4) In the event of any change after the date hereof in the reference base used to compile the Index the figure taken to be shown in the Index after such change shall be the figure which would have been shown in the Index if the reference base current at the date

hereof had been retained

- (5) In the event of it becoming impossible by reason of any change after the date hereof in the methods used to compile the Index or because the Index shall cease to be published or for any other reason whatsoever to implement the foregoing provisions of this Clause or if any dispute or question shall arise between the parties hereto with respect to the sum payable or the construction or effect of this Clause the determination of such sum or other matter in dispute shall be determined by a single arbitrator to be nominated (in default of agreement between the parties) by the President for the time being of the Royal Institution of Chartered Surveyors in accordance with the Arbitration Act 1950 or any statutory modification or re-enactment thereof for the time being in force who shall have full power to determine what would have been the figure for any month in the Index had it continued on the basis and giving the information required for the operation of this clause

**Costs relating to
enfranchised property**

32. The Owner shall further pay to the Landlords their proper legal costs and surveyors fees incurred by them in connection with any acts or things required or reasonably to be done by them or by the Landlords' Agent by virtue of this Scheme specifically in relation to the enfranchised property or any part thereof and by reason of any default on the part of the Owner including (but without prejudice to the generality of the foregoing) the drawing up of Schedules of Dilapidations and notices and any inspection to ascertain whether any notice has been complied with

Recovery of sums due

33. (1) Any sum which shall have become payable by the Owner to the Landlords under any provisions of this Scheme shall be recoverable as a simple debt
- (2) Subject as hereinafter provided any such sum which shall remain unpaid for twenty one days after the same shall have become due shall also be charged on the enfranchised property and for the purpose of enforcing such charge the Landlords shall have the same powers and remedies under the Law of Property Act 1925 as if the Landlords were a mortgagee by deed having powers of sale and leasing and of appointing a receiver
- (3) Provided that any such charge and the powers of the Landlords of enforcing the same shall be postponed and take effect in all respects subject to any mortgage or charge affecting the enfranchised property or any part thereof which has been or shall have been created before such charge under this Clause has arisen and become enforceable and has been registered or

made the subject of a notice or caution under the Land Registration Act 1925 or any statutory modification or re-enactment thereof for the time being in force

Arbitration as to reasonable sum

34. If any dispute shall arise between the Landlords and the Owner as to whether any sum demanded by the Landlords pursuant to any of the provisions of this Scheme is a reasonable sum the matter shall be referred to the arbitration of a single arbitrator to be appointed in default of agreement by the President for the time being of the Royal Institution of Chartered Surveyors and the provisions of the Arbitration Act 1950 or any statutory re-enactment or modification thereof shall apply

Deputations

35. (1) The Landlords' Agent will upon reasonable notice given to him receive any deputation from any society or association whose objects include the preservation or protection of any of the amenities of the Estate or any part thereof will give proper consideration to the representations of any such deputation and to any written representations made by any such society or association will give all such information or explanations as shall be proper in the circumstances of each case and will permit any such deputation upon request to inspect the records hereinafter referred to
- (2) The Landlords shall keep records of all applications made to them notices served on them and consents given by them under the Scheme in respect of any enfranchised property

No premiums

36. Except in the cases specifically provided for in this Scheme the Landlords shall not be entitled to claim or charge any sum of money (whether by way of premium or line or on respect of costs or expenses or otherwise) as a condition of or in consideration of the giving of any consent or approval under this Scheme

Variation of scheme

37. The provisions of this Scheme may be terminated or varied or any part of the Estate may be excluded from the Scheme with the approval of the High Court of Justice on the application of the Landlords or any Owner or tenant of any property comprised in the Estate if a change of circumstances make it appropriate

Negation of building Scheme

38. Nothing in this Scheme shall be deemed to imply the existence of a building scheme or other scheme of development

Notices

- 39.** The provisions of Section 196 of the Law of Property Act 1925 and the Recorded Delivery Service Act 1962 shall apply in respect of any notice to be given or served under the provisions of this Scheme