

Salvatore

057038-3 L

Approved by the District Land Registrar, North Auckland, No. 3987/1968

MEMORANDUM OF LEASE

DEREK PETER ION of Auckland manager

BAREFOOT & THOMPSON SOLICITORS
 (who with his successors in title is hereinafter called "The Lessor") being registered as proprietor of an estate in fee simple subject however to such encumbrances liens and interests as are notified by memoranda underwritten or endorsed hereon in all that piece of land situated in the North Auckland Land District containing **THIRTY FOUR DECIMAL NINE PERCHES** (0a. Or. 34.9 prs.) more or less remaining to be deposited plan 42553 and being part Allotment 52 Part 1 of the block of land being all of the land comprised and described in certificate of title Volume 1325 Folio 15 (North Auckland Registry) **SUBJECT TO** Federal agreement in T. 577035

Current title has been obtained for the client and is made available to customers for general use. Customers warrant the accuracy, completeness or correctness of the documents and legal advice.

IN CONSIDERATION of the rent hereinafter reserved and of the covenants conditions and agreements on the part of the Lessee herein expressed or implied to be paid performed observed and fulfilled the lessors **DOETH HEREBY LEASE UNTO**

PETER ALBERT CRAIGHEAD of Auckland Solicitor

(hereinafter with his executors administrators and assigns called "the Lessee") all that the flat numbered **TWO (2)**

(hereinafter termed "the premises") being part of the building (hereinafter called "the said building") erected on the said land and more particularly shown and described as Flat **TWO (2)** on Deposited Plan **71534**

TO BE HELD by the Lessee as tenant for a period of nine hundred and ninety-nine years (999) as from and including the **17th** day of **January 1974** at a rental of ten cents per annum payable in advance in each year throughout the term hereby created **SUBJECT** to the following conditions and provisions that is to say:—

- The Lessee **DOETH HEREBY COVENANT** with the Lessor:—
1. TO pay the rent in the manner and at the times hereinafter provided if demanded by the Lessor.
 2. THE Lessee will upon demand in writing by the Lessor or their duly authorised agent pay to the Lessor one **third** of the cost of the following payments for repairs maintenance and other charges incurred or to be incurred in respect of the said land and the said buildings:—
 - (a) The general rates and other levies assessed on the said land and said buildings: Provided that whensoever the rates so assessed are assessed on the capital value or rental value of the said land and the said building the Lessee shall pay in lieu of one **third** thereof the same proportion of the rates so assessed as the value of **one third** of the said land plus the value of the premises hereby leased bears to the value of the whole of the said land and the whole of the said building such value in respect of the premises hereby leased being determined in a similar manner to that by which the value of the whole of the said building was determined.
 - (b) Fire Insurance premiums assessed on the said building: Provided that if every premises erected on the said land has its insurable value separately assessed the Lessee shall pay that proportion of the total premium payable which the insurable value of the premises hereby leased bears to the whole insurable value.
 - (c) Repairs to or reconstruction of all electrical and plumbing equipment, drains and other amenities serving the said building as a whole.
 - (d) Repairs to or reconstruction of the roof spouting and downpipes of the said building.
 - (e) Charges for any exterior decoration or exterior cleaning of the walls of the said building as and when the same are reasonably required to the building as a whole and **PROVIDED** further that the Lessee may at any time redecorate the exterior of his premises at his own cost provided such redecoration is in reasonable uniformity with the exterior decoration of the other premises in the said building.
 - (f) Charges for all structural repairs and maintenance necessary to the walls framework or foundations of the said building.
 - (g) Charges for care and maintenance of the grounds paths fences gates and other amenities surrounding the said building.
 - (h) Provision for a general reserve fund to meet contingent repairs and maintenance.
 - (i) All other expenses in respect of the said land and building commonly incurred by the Lessor in relation to all of the premises erected on the said land not relating solely to any one or more of the premises in the said building to the exclusion of the other or others of them and to pay all such other expenses as are incurred solely in relation to the premises hereby leased and in equal shares with the others responsible therefor those which relate to the premises hereby leased and to one or more other premises in the said building.

All moneys payable under this clause for the common benefit of the several lessees of the above described land shall be payable to a person nominated by the Lessor or a majority of them with instructions to disburse the same for the foregoing purposes. In the event that no majority of the Lessors agrees upon a nominee the nominee shall be selected by lots from the names of **3** persons one selected by each Lessee. **AND** in default of payment thereof by the Lessee the Lessor shall be entitled to demand interest on the amount or amounts owing at a rate being one per cent in excess of the average rate charged from time to time by Trading Banks on account current which is overdrawn from the date when payment should have been made but such demand shall be without prejudice to the rights of the Lessor under this lease **PROVIDED ALWAYS** that if any general rates and other levies fire insurance or other outgoings are hereafter assessed levied or demanded in respect of the said premises as a separate dwelling or interest in the said land then the same shall be paid by the Lessee and such payment shall discharge his obligations with respect thereto elsewhere herein provided.

3. **THAT** the Lessee shall use the premises for residential purposes only and shall not bring into or keep in the flat any cat/s dog/s bird/s or other pet/s which may unreasonably interfere with the quiet enjoyment of any of the other Lessees of the said building or which may create a nuisance.
4. **THAT** the Lessee shall not bring into or keep in the premises any goods or any substances of a highly combustible nature or do anything (including the unauthorised use of light and power fittings) which may render an increased premium payable for the fire insurance of the said building or which may make void or voidable any such policy of insurance and shall be liable for any increased premium payable by reason of breach hereof.
5. **THAT** the Lessee shall comply with all statutes regulations and by-laws of any local authority insofar as they affect the use of the premises by the Lessee.
6. **THAT** the Lessee shall at his own cost keep and maintain the interior of the premises including the doors, windows, electrical and plumbing apparatus thereof and all fittings of any kind therein in good order and condition.

7. THAT the Lessee will not leave or place in any passageway stairway or parking area serving the said building or in the grounds surrounding it any receptacles or obstructions whatsoever and will not deposit any refuse or rubbish therein or thereon and will place any garbage cans only in a location from time to time approved of by the Lessors.

8. THAT the Lessee will not use the premises for any illegal or immoral purposes and will refrain from causing excessive noise or disturbance within or in the vicinity of the premises which may be likely to cause a nuisance or an annoyance to any/the Lessors or occupants of any premises in the said building.

9. (a) For the purposes of this clause the ownership as joint tenants or as tenants in common of a one share in the fee simple by more than one persons of whom any one or more may have possession of the said premises shall be deemed to be ownership and possession by the same person.

third

(b) If at any time without the consent of the other Lessors whether prospectively or retrospectively given the ownership and possession in law of a one third of the fee simple shall not be vested in the same persons for the same estates as is the ownership and possession of the legal estate of leasehold under this lease then the terms of Clause 22 hereto shall operate **PROVIDED THAT** such consent shall not be unreasonably or arbitrarily withheld in the case of a respectable and responsible nominee of the Lessee and shall not be required in the following cases:—

(i) Where both the leasehold and fee simple estates being vested in the same persons the use occupation and enjoyment of or the receipt of income from any premises for any term of years or for the life or successive lives of any persons is in the beneficial ownership of others.

(ii) On the granting of any term of years by way of sub-tenancy or sub-lease by a Lessee (being the owner of one of the fee simple) **PROVIDED** such terms of years inclusive of any rights of renewal does not exceed ten years.

(iii) **PROVIDED** that this clause shall not apply to the first Lessee hereof.

(c) The Lessee may at any time by notice in writing to the Lessors surrender the term of years hereby created and require the grant of a new lease to the Lessee's nominee whereupon the Lessors shall at the expense of the Lessee in all things accept such a surrender and grant to such nominee a new lease of the said premises for the residue of the term hereof then unexpired and otherwise on the same terms and conditions as this lease **PROVIDED HOWEVER**

(i) That the Lessors shall not be obliged so to grant a new Lease to any such nominee who does not contemporaneously with the grant of such new lease have vested in him the legal and beneficial ownership of the one share in the fee simple at the time owned by the Lessee and

(ii) That such surrender shall not release the Lessee hereunder from any antecedent liability hereunder.

10. THAT the Lessee will permit a duly authorised representative of the Lessor at all reasonable times to enter upon the premises to inspect the condition of the same.

11. THAT the Lessee or any occupier of the premises shall not make any structural alteration to the building without the prior consent first had and obtained of the Lessor on each such occasion **PROVIDED** that such consent shall not be unreasonably or arbitrarily withheld.

12. THAT the Lessee will duly and punctually pay all charges for water electricity gas or other supplies or services relating solely to the premises.

AND THE LESSOR DOETH HEREBY COVENANT with the Lessee as follows:—

13. THAT the Lessee performing and observing all and singular of the covenants and conditions on his part herein contained and implied shall quietly hold and enjoy the premises and the Lessee his relatives guests friends invitees and licensees and any other persons authorised by him shall have the use in common with the other Lessees of all the premises in the said building, their relatives, guests friends invitees and licensees and others authorised by them of any drives paths and parking area serving the said building and the grounds surrounding the same and any stairways balconies and verandahs in the said building serving the purposes of access to and from such premises without any interruption by the Lessor or any person claiming under the Lessor.

14. THAT the Lessor shall insure the said building against fire and earthquake to its full insurable value and will take out a full replacement policy and will pay all insurance premiums on any such policies as and when the same shall become due and owing unless the Lessee and every other Lessee of a part of the said building agrees to effect and keep current a separate full and adequate replacement insurance policy for such parts of the said building as each Lessee holds as Tenant.

15. THAT the Lessor will keep the exterior and roof of the said building in a good state of repair and will duly and punctually pay all the items and matters referred to in paragraph 2 hereof and will cause the building at all times to be managed and maintained to a high standard provided that in performance of the foregoing covenants the Lessor or their authorised workmen shall have the right to enter the premises upon giving reasonable notice to effect such work:

16. THAT the Lessee shall have the right to let the premises to a reputable and solvent subtenant **PROVIDED THAT** the Lessee shall ensure that the subtenant enters into a Tenancy Agreement in writing with the Lessee whereby the subtenant covenants not to do or permit anything to be done in or upon or about the premises which if done or permitted to be done by the Lessee would constitute a breach of any of the covenants conditions and restrictions herein contained **PROVIDED** however that the securing of any such tenancy agreement shall not operate to relieve the Lessee from any of his obligations or liabilities hereunder.

AND IT IS HEREBY COVENANTED AND AGREED BY AND BETWEEN THE LESSOR AND THE LESSEE:—

17. THAT if and whenever there shall be any breach non-observance or nonperformance of any covenant condition or agreement on the part of the Lessee herein contained or implied of which the Lessor shall have given to the Lessee twenty-eight days' notice in writing calling upon him to remedy the same then on the expiration of such notice such breach remaining unremedied it shall be lawful for the Lessor forthwith or any time thereafter to re-enter upon and take possession of the premises or any part thereof in the name of the whole whereupon the term hereby created shall absolutely cease and determine.

18. THAT in the event of the premises being damaged or destroyed by fire or earthquake during the term hereby created all moneys consequently received under and by virtue of any policy or policies of insurance shall thereupon be expended with all possible expedition in reinstatement of the said premises and in making good the loss or damage in respect of which the said insurance moneys shall have become payable.

19. THAT the Lessor shall not be liable to the Lessee or any other person for any damage caused either by the overflow of the water supply to the said building or to the premises or by rainwater entering the premises.

20. THAT the Lessor will not let any other premises in the said building save on the same terms and conditions those things only being changed which have to be changed as these presents and will not at any time vary the terms and conditions of such lease or any substituted lease save with the consent of the Lessee.

21. THAT if any question or difference whatsoever shall arise between the parties to this lease or between their respective representatives or assigns or between one of the parties hereto and the representatives or assigns of the other/s touching these presents or any clause therein or anything herein contained or the construction hereof as to a matter or matters in any way connected with or arising out of these presents or the operation thereof or the rights duties or liabilities of any party in connection with the premises then and in every such case the matter in difference shall be referred to arbitration in accordance with the Arbitration Act, 1908 and its amendments.

22. THAT in the event of this Lease being finally and effectively determined (whether by Order of the Court on application for relief against forfeiture or otherwise) then the Lessee hereby irrevocably appoints the Lessors other than the Lessee his Attorneys with power and upon trust to sell his interest in the said land together with the obligation to take a lease of the premises for the unexpired balance of the term hereby created and otherwise on the same terms and conditions as are contained in this lease at such price as is the fair market value thereof with such lease **PROVIDED ALWAYS** that such Attorneys shall be bound to obtain the report of a registered valuer as to such fair market value. The said Attorneys shall not however be bound to sell at such valuation and shall not be liable to the Lessee for selling at a price less than such valuation **PROVIDED** that they have made every reasonable endeavour to obtain a price equivalent to such valuation. For the purposes aforesaid the said Attorneys shall have full powers to execute all necessary instruments whether under the Land Transfer Act or otherwise. The net proceeds of any such sale after payment of all expenses whatsoever incurred by the Lessors in any way arising out of the determination of this Lease and/or the said sale or in any way pertaining thereto shall be held by the said Attorneys in trust for the Lessee.

23. THAT the parties agree that there shall be no merger in consequence of the Lessee becoming or remaining a proprietor of a freehold estate in the said land as well as being the Lessee hereunder.

24. THAT notwithstanding anything herein or in any statute or rule of law to the contrary contained or implied but subject as hereinafter provided the liability of the Lessee for the time being hereunder (whether to the Lessors or the other Lessees of the premises comprised in the said buildings or any of them or their respective successors executors administrators or assigns) shall absolutely cease and determine upon and as from the date of such Lessee transferring or assigning this Lease PROVIDED HOWEVER that nothing hereinbefore in this present Clause contained shall operate or be construed to relieve such Lessee from liability in respect of any non-payment, non-observance or non-performance for during and in respect of the period during which he shall have been and remained Lessee hereunder of any moneys payable hereunder or of any of the covenants agreements conditions and restrictions herein expressed or implied and on the part of the Lessee for the time being hereunder to be paid observed performed and complied with respectively.

25. THAT it is agreed between the parties that as to all matters relating to the use and enjoyment of the said land not comprised in these presents and in particular as to the cultivation thereof planting and keeping of lawns, gardens, trees, hedges and the erection of any structures and as to all matters affecting the management and control thereof, each will consult with the other and with all other the Lessees of other premises in the said building and all disputes between them in any way arising out of their ownership and occupation and use of the said land and of any structures erected thereon shall be referred to arbitration in the manner provided in clause 20 hereof.

26. THAT the Lessee shall be entitled with the consent of a majority of the Lessors to take a lease/licence for such time and on such terms and conditions as may be agreed from all of the Lessors in respect of a defined part of the said land for the use and enjoyment by the Lessee for a purpose to be agreed upon by the Lessors in particular this Clause shall allow a Lessee to take such a lease/licence for a garage and/or parking area.

AND IT IS HEREBY AGREED BY AND BETWEEN THE LESSORS AND EACH OF THEM:—

27. THAT in the event of any Lessor or Lessors requiring any matter or things to be done by the Lessors which the Lessors are empowered to do pursuant to the terms of this Lease or pursuant to their rights and powers as owners of the said land and building or which may be desirable for the efficient and harmonious administration of the said land and building the following procedure shall be carried out:

- (a) Such Lessor or Lessors shall give notice thereof in writing setting out the proposed action and shall cause the same to be served upon all the other Lessors in accordance with the provisions as to service of notice both herein and contained in Section 152 of the Property Law Act, 1952.
- (b) If after the lapse of seven days from the service of the said notice as aforesaid the Lessors or a majority of them approve of the proposed action in writing the Lessors so approving shall forthwith notify all the other Lessors of the majority decision and may thereafter carry into effect the proposed action in the name of all the Lessors and all actions taken by the consenting Lessors as aforesaid coming within the scope of the memorandum shall be binding on the Lessors and any obligation undertaken by such consenting Lessors shall be enforceable against any Lessor who shall not have consented thereto.
- (c) That if the Lessors shall be unable to arrive at a majority decision then any dispute doubt or question shall be referred to a single arbitrator in case the parties can agree on one and otherwise to two or more arbitrators and their umpire in the case of a disagreement one of the arbitrators to be appointed by each party in dispute and in either case in all respects with the provisions in that behalf contained in the Arbitration Act, 1908 or any statutory modification or re-enactment thereof for the time being in force.
- (d) In determining a majority for the purposes of this Clause the owner or owners for the time being of each undivided third share in the fee simple shall be regarded as one individual notwithstanding that such undivided third share may be owned by two or more persons either jointly or in common PROVIDED ALWAYS that if the expenditure involved in carrying into effect the said proposed action will be in excess of FIFTY DOLLARS (\$50.00) for any one purpose or more than ONE HUNDRED DOLLARS (\$100.00) in any one year any aggrieved Lessee may give notice in writing (within seven days after service of notice of the majority decision upon him or her) to the other Lessees requiring the matter or thing in difference to be referred to arbitration in the same manner as if a majority decision had not been arrived at.

The abovenamed Lessee **DOETH HEREBY ACCEPT** this Lease of the flat to be held by him as tenant and subject to the conditions restrictions and covenants above set forth.

IN WITNESS WHEREOF these presents have been executed this 24th day of January one thousand nine hundred and seventy-four

DEREK
PETER ION

SIGNED by the abovenamed
as Lessors in the presence of:—

Allen Larsen
Law Clerk to
Newbery Mead & Co.
Solicitors
Auckland.

PETER ALBERT
CRAIGHEAD

SIGNED by the abovenamed
as Lessee in the presence of:—

Allen Larsen
Law Clerk to
Newbery Mead & Co.
Solicitors
Auckland.

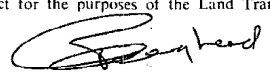
270/451

NO:

LEASE

Correct for the purposes of the Land Transfer Act

of Lot 6 D.P. 42553
C/T. 1325/15
Situatd in North Auckland Registry



Solicitor for the Lessee

D.P. 42553 Lessor

P.A. CRAIGHEAD Lessee

PARTICULARS entered in the Register-book

Vol. Folio
the day of 19
at o'clock

REGISTERED IN TRIPLICATE

Assistant Land Registrar
of the District of North Auckland

~~Composite Certificate of Title issued~~
Register ^{270/451}
Including $\frac{1}{3}$ share in fee simple.

NEWBERY MEAD & CO.
SOLICITORS
AUCKLAND, N.Z.

Aisher Printing House Ltd.



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P. Thompson

DISTRICT LAND REGISTRY
AUCKLAND NO. 3

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