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N.Z. Stamp duty

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(Approved by the District Land Registrar, South Auckland S3368 17/1966)

New Zealand

Memorandum of Lease

DISCLAIMER

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RADONICH HOLDINGS LIMITED a duly incorporated Company having its registered office at Auckland (hereinafter called "the Lessors") being registered as proprietors in fee simple

subject however to such encumbrances liens and interests as are notified by memoranda underwritten or endorsed hereon in that piece of land more particularly described in the First Schedule hereto (after called "the said land").

IN CONSIDERATION of the rent hereinafter reserved and the covenants and conditions herein contained or implied and on the part of the lessee to be paid performed and observed respectively DO HEREBY LEASE unto

DESMOND IVAN RADONICH of Auckland, Builder

(hereinafter called "the Lessee") ALL THAT the flat and garage being that part of the building (hereinafter called "the said building") erected on the said land which said flat and garage are more particularly described in the Second Schedule hereto (hereinafter called "the flat") TO BE HELD by the Lessee for the term of Nine hundred and ninety-nine (999) years computed from the 15th day of August 1966 AT A RENTAL of One shilling per annum payable yearly in advance on the anniversary of such date by the Lessee to the Lessors SUBJECT TO the covenants conditions and restrictions hereafter set forth AND the Lessee DOTH HEREBY COVENANT with the Lessors AND IT IS HEREBY AGREED AND DECLARED BETWEEN and by the Lessors and the Lessee as follows:—

1. THAT the Lessee will pay the rent in the manner and at the times hereinbefore provided.
2. THAT the Lessee will upon demand in writing by the Lessors or their agent pay to the Lessors one one-fifth of the cost of the following:—
 - (a) General and other rates taxes charges assessments impositions and outgoings whatsoever payable in respect of the said land and the said building; provided however that in the event of any local or other authority issuing to the lessee a separate assessment of general or other rates taxes charges assessments impositions and outgoing which relate solely to the lessee's flat then that lessee shall pay and be solely responsible for such separate assessment.
 - (b) Subject to the provisions of Clause 13 Fire or other insurance premiums assessed on and payable in respect of the said building;
 - (c) Work carried out and materials used in connection with all electrical and plumbing equipment drains and other amenities serving the said building as a whole;
 - (d) Repairs to the replacement of the roof spouting and downpipes of the said building;
 - (e) Any exterior painting or decoration of the exterior walls, exterior doors, windows and roof of the said building.
 - (f) All structural repairs and maintenance necessary to the exterior walls framework or foundations of the said building;
 - (g) Care and maintenance of the gardens, lawns, paths, fences, gates and other amenities on the said land including the cutting of hedges;
 - (h) A general reserve fund of reasonable amount from time to time approved by the Lessors to meet contingent repairs and maintenance.
 - (i) All other expenses in respect of the said land and the said building incurred by the Lessors and not relating solely to any particular flat;

All the moneys payable under this clause shall be payable to a person nominated by the Lessors or a majority of the Lessors for disbursement for the foregoing purposes AND in default of payment thereof by the Lessee the Lessors shall be entitled to demand and the Lessee shall pay interest on the amount or amounts owing at the rate of Seven Pounds (£7/0/0) per centum per annum from the date of demand but such demand shall be without prejudice to the rights of the Lessors under this Lease.
3. THAT the Lessee will duly and punctually pay all charges for water electricity gas or other supplies or services relating solely to the flat.
4. THAT the Lessee shall use the flat for residential purposes only and will not do or suffer to be done any act matter or thing which shall or may be or grow to the annoyance nuisance grievance damage or disturbance of the other Lessees of the said building and shall not bring into or keep in the flat any cat dog bird or other pet which may reasonably be expected to interfere or which does interfere with the quiet enjoyment of the other Lessees of the said building or which may create a nuisance.
5. THAT the Lessee shall not bring on to or keep in the flat or garage 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. The lessee shall comply with all statutes regulations and by-laws of any local authority in so far as they affect the user of the flat in terms hereof.
6. THAT the lessee shall at his own cost keep and maintain the interior of the flat and garage and the doors windows electrical and plumbing apparatus pertaining thereto (notwithstanding they or some of them may be in the exterior walls thereof) and all fittings of any kind therein in good order and condition.
7. THAT the Lessee will not leave or place in the passageways stairways or parking areas appurtenant to or in the grounds surrounding the said building any receptacles or obstructions whatsoever and will not deposit any refuse or rubbish therein or thereon and will place any garbage cans in the location approved by the Lessors.
8. THAT the Lessee will not use the flat for any illegal or immoral purposes and will refrain from causing excessive noise or disturbance in or about the flat which may be likely to cause a nuisance, or any annoyance to the Lessors or occupants of any adjoining flats in the said building. This clause shall not in any way limit the provisions of clause 4 of these presents.
9. THAT it is a condition of this lease that the Lessee for the time being shall at all material times remain proprietor of an undivided one-fifth share in the fee simple of the said land while he continues to be a Lessee hereunder. If the Lessee unless by these presents expressly authorised so to do shall deal with either his interest hereunder or his interest in the fee simple in such manner that both leasehold and freehold interests are not owned by the same person then this Lease shall be immediately determined without however discharging the Lessee from payment of any moneys owing hereunder or from liability for any antecedent breach of any covenant or agreement herein contained or implied. (provided always that this clause shall not apply to the first lessee hereof)

10. THAT the Lessee will permit the Lessors or their representatives between the hours of nine o'clock in the morning and six o'clock in the afternoon on reasonable notice, to enter the flat to inspect the condition of the same PROVIDED HOWEVER that the Lessors and their representatives shall not make frequent and unnecessary entries upon the flat in the exercise or purported exercise of their rights under this clause.

11. THAT the Lessee shall not make any structural alterations to the building without the prior written consent of the Lessors first had and obtained on each occasion which consent shall not be unreasonably or arbitrarily withheld.

12. THAT the Lessee performing and observing all and singular the covenants and conditions on his part herein contained and implied shall quietly hold and enjoy the flat and garage without any interruption by the Lessors or any person claiming under them.

13. THAT the Lessors shall insure the said building against fire and earthquake to its full insurable value under a comprehensive insurance policy and will pay all insurance premiums on such policy as and when the same shall become due and owing unless the Lessee and every other Lessee of the said building effects and keeps current a separate and adequate comprehensive insurance policy for such parts of the said building each Lessee holds as tenant and all such separate insurance policies are in the names of both the Lessors and the Lessee for their respective rights and interests and are issued by the same Insurance Company.

14. THAT the Lessors will keep the exterior and roof of the said building in a good state of repair and will duly and punctually pay all costs expenses charges and outgoings (other than contributions to the reserve fund) in connection with the items and materials referred to in paragraph 2 hereof and will cause the said building at all times to be kept and maintained in a good and clean condition and order provided that in performance of the covenants in this clause the Lessors shall have the right to enter the flat at all reasonable times after giving reasonable notice to inspect the same and to effect such work or repairs as may be necessary provided that in the event of any such repair being rendered necessary by the negligence or carelessness of the Lessee or any person in the building as the Licensee or invitee of the Lessee the expenses of such work or repairs shall be borne by the Lessee.

15. THAT if and whenever the Lessee shall have made any breach or default in the observance or performance of any of the covenants conditions and restrictions herein contained and shall not have remedied such breach or default in all respects within twenty-eight days of the date of receipt by the Lessee of written notice from the Lessors specifying such breach or default then it shall be lawful for the Lessors or a majority of them to re-enter upon the flat or any part or parts thereof in the name of the whole and to determine this Lease and the estate and interest of the Lessee herein and to expel and remove the Lessee but without thereby releasing the Lessee from any liability for any previous breach non-observance or non-performance of any of the said covenants conditions and restrictions.

16. THAT in the event of the said building or flat being partially or wholly damaged or destroyed by fire or earthquake during the term hereby created all moneys received by either party hereto under and by virtue of any policy or policies of insurance shall thereupon be expended with all possible expedition in reinstatement of the said building or the flat and making good the loss or damage in respect of which the said insurance moneys shall have become payable and in the event of the moneys received under and by virtue of the said policy of insurance being insufficient to reinstate the said building or the flat so damaged or destroyed such insufficiency shall be borne by the Lessors in the proportion in which they respectively own the fee simple of the above described land provided that if the fire was caused by the negligence of one or more of the Lessors that party or parties shall bear such insufficiency.

17. THAT the Lessors shall not be liable to the Lessee or any other person for any water damage caused either by the overflow of the water supply to the said building or to the flat or by rain water entering the said building or the flat PROVIDED HOWEVER that this clause shall in no way relieve the Lessors from liability through their failure or neglect to keep observe and perform their obligations under Clause 14 of this Lease.

18. THAT the Lessee shall have the right to let the flat to a reputable and solvent subtenant provided that the Lessee shall ensure that the subtenant enters into a Tenancy Agreement with the Lessee whereby the subtenant covenants not to do or permit anything 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.

19. 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.

20. THAT in the case of default by the Lessee at any time in the observance or performance of any of the covenants conditions and restrictions herein contained it shall be lawful for but not obligatory upon the Lessors or a majority of the Lessors (but without prejudice to any of the other rights powers or remedies of the Lessors) at the cost and expense of the Lessee in all things to pay all or any moneys and to do and perform all or any acts or things in the opinion of the Lessors or a majority of the Lessors reasonably necessary for the full or partial performance or observance of such covenants conditions or restrictions or any of them and if necessary or convenient for the purpose of exercising any of the powers herein contained conferred upon the Lessors to enter by servants agents contractors or workmen upon the flat or any part thereof AND the Lessee will immediately on demand pay to the Lessors all moneys so paid by the Lessors and the costs charges and expenses incurred by the Lessors and until such payment the same shall be treated as an advance to the Lessee by the Lessors and shall bear interest at the rate of Seven Pounds (£7) per centum per annum computed from the date or respective dates of such monies being expended until payment thereof to the Lessors.

21. THAT the Lessee shall be bound by any decision arrived at in accordance with the provisions of clause 25 hereof and the Lessee shall give all reasonable assistance in the carrying out of such decision.

22. THAT if any question or dispute whatsoever shall arise between the Lessee and the Lessors other than the Lessee touching these presents or any clause or anything herein contained or the construction hereof or as to duties or liabilities of either Lessors or Lessee in connection with the premises then and in every such case the matter in dispute shall be referred to a single Arbitrator to be agreed upon by the parties or failing agreement to two arbitrators one to be appointed by the Lessors other than the Lessee and one to be appointed by the Lessee and an umpire to be appointed by the arbitrators before entering into the consideration of the matter in dispute and any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1908 or any statutory re-enactment or amendment thereof for the time being in force.

23. 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 other Lessors as 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 flat for the unexpired balance of the term hereby created and otherwise on the same term 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 former 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 for the Lessee.

24. THAT the expression "the Lessors" where used in these presents shall extend to signify include and bind the person or persons company or companies executing these presents as lessor and all the lessors (if more than one) jointly and severally and all the respective executors administrators successors and assigns of each lessor and the expression "the Lessee" where used in these presents shall extend to signify include and bind the person or persons company or companies executing these presents as lessee and all lessees (if more than one) jointly and severally and all the respective executors administrators successors and assigns of each lessee and that words signifying the masculine gender shall include the feminine gender and/or the neuter gender and words signifying the singular number shall include the plural number and vice versa and the expression "majority of Lessors" where used herein shall mean any number of the Lessors who together own more than an undivided one half share or interest in the said land and the expression "a majority decision" shall mean a decision of a majority of the Lessors as so defined, AND the lessors (if there shall be more than one) DO and each of them DO **HEREBY COVENANT** the one with the other or the others of them.

25. THAT in the event of any lessor or lessors requiring any matter or thing 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 the said building or which may be desirable for the efficient and harmonious administration of the said land and the said 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 either personally or by leaving the same at or posting the same to the last known place of abode or address of the other lessors and in the event of such service being effected by post the same shall be sent by registered letter and service shall be deemed to have been effected on the day after posting thereof.

- (b) If after the lapse of seven days from the service of the said notice as aforesaid the Lessors or a majority of the Lessors approve of the proposed action in writing the lessors so approving shall forthwith notify all the other lessors of the majority decision and may there after 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 on any proposed action but a number of lessors who together own a one-half interest in the freehold of the said land approve of the proposed action in writing then the matter shall be referred to a single arbitrator to be agreed upon by all the lessors or failing agreement to arbitrators one of whom shall be appointed by each one or more lessors having an opposing interest in the matter in dispute and (if the arbitrators are not in unanimous agreement) an umpire to be appointed by the several arbitrators before entering into the consideration of the matter in dispute and any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1908 or any statutory re-enactment or amendment thereof for the time being in force.
- (d) In determining a majority for the purposes of this Clause the owners or owners for the time being of each undivided one-fifth share in the fee simple shall be regarded as one individual notwithstanding that such undivided one-fifth shares may be owned by two or more persons either jointly or in common.
- (e) THE foregoing is subject to the condition that if the expenditure involved in carrying into effect the said proposed action will be in excess of £25 for any one purpose or more than £50 in any one year any aggrieved party hereto may give notice in writing (within seven days after service of notice of the majority decision upon him or her) to the other parties hereto requiring the matter or thing in difference to be referred to arbitration in the same manner as if a majority decision could not be arrived at.

I DESMOND IVAN RADONICH do hereby accept this lease of the above described flat to be held by me as tenant and subject to the conditions, restrictions and covenants above set forth.

FIRST SCHEDULE

ALL THAT parcel of land containing ONE ROD AND EIGHT PERCHES (0A.1R.8P.) more or less being part of Lot 96 on Deposited Plan 3855 which said parcel of land is portion of Allotment 7 of Section 12 of the Suburbs of Auckland and being all the land in Certificate of Title Volume 168 Folio 103 Auckland Registry

SUBJECT TO Agreement as to fencing in Transfer 54708

SECOND SCHEDULE

ALL THAT the Flat No. 1 and Garage No. 1 shown on Deposited Plan 57299

IN WITNESS WHEREOF these presents have been executed this September One thousand nine hundred and sixty-six

day of 27 66

THE COMMON SEAL of
Signed by the abovenamed
RADONICH HOLDINGS LIMITED

as Lessors was hereto
affixed
as Lessors in the presence of:



... D. I. Radonich Governing Director
Signed by the abovenamed

DESMOND IVAN RADONICH

as Lessee in the presence of:

McSwain
Solicitor
Auckland.

A175939

271

No.

Correct for the purposes of The Land Transfer Act

Lease of Flat 1 & Garage 1
D.P. 57299

[Signature]

Solicitor for Lessee

REGISTERED IN TRIPLICATE

RADONICH HOLDINGS LIMITED
Lessors

DESMOND IVAN RADONICH
Lessee

Particulars entered in the Register Book,

Volume *168* Folio *103*
the *23* day of *Sept.* 19 *66*
at *2.30* o'clock.



scub
District
Assistant Land Registrar
of the District of *Auckland*

9D/679

LAND & DEEDS	
Nature:	<i>Lease</i>
Date:	<i>23 SEP 1966</i>
Time:	<i>2.30</i>
Fee: £	<i>1-1-</i>
Abstract No.	<i>8539</i>

Plan deposited
23.9.1966

DIGNAN, ARMSTRONG & JORDAN
SOLICITORS
AUCKLAND

