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(Approved by the District Land Registrar, North Auckland, No. 1963/3729)

New Zealand

Memorandum of Lease

ROY CLARK of Whangarei, Builder and MARJORIE JOAN CLARK his wife

(who with ~~its~~^{their} respective executors administrators and assigns ~~is~~^{are} hereinafter called "The Lessors") being registered as proprietors 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 39.6 perches

more or less being Lot 24 Deposited Plan 27128 and all the land

in Certificate of Title Volume 840 folio 157 SUBJECT TO

~~Mortgage No 161443 to E. W. T. Arnesen and Mortgage No 288992~~

~~to the A.N.Z. Banking Group and to Fencing Covenant in Transfer 394629.~~

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 DO HEREBY LEASE UNTO

ROY CLARK of Whangarei, Builder and MARJORIE JOAN CLARK his wife

(hereinafter with his/her/their executors administrators and assigns called "the Lessee") all that the flat numbered FOUR (4) ~~Garage No. nil~~ being part of the building (hereinafter called "the said building") erected on the said land and more particularly shown and described

on Deposited Plan 74759 ~~together with the exclusive right of use of the land marked X on the deposited plan~~

(hereinafter called "the flat") TO BE HELD by the Lessee as tenant for a period of nine hundred and ninety-nine (999) years as from and including the First day of November 1974 at the rental of one ~~shilling~~^{6 shillings} per annum payable in advance each year throughout the term hereby created SUBJECT to the following conditions and provisions that is to say: -

The Lessee DOTH HEREBY COVENANT with the Lessors: -

1. TO pay the rent in the manner and at the times hereinbefore provided.
2. THE Lessee will upon demand in writing by the Lessors or their duly authorised agent pay to the Lessors one- 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) General rates and other levies assessed on the said land and the said building
 - (b) Fire insurance premiums assessed on the said building
 - (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
 - (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) Provision for and charges for the payment performance and observance of all moneys covenants and conditions to be paid performed and observed in respect of any mortgage or mortgages or charge or charges now or at any time hereafter raised by the Lessors jointly and secured upon the whole of the said piece of land of which the Lessors are registered as proprietors as aforesaid but nothing herein contained or implied shall have any reference or application to any mortgage or charge raised by any one or more of the Lessors affecting the individual estate and interest of each such Lessor or Lessors individually
 - (j) All other expenses in respect of the said land and building jointly incurred by the Lessors and not relating solely to the flat or other flats in the said building.

All moneys payable under this clause shall be payable to a person nominated by the Lessors or a majority of them with instructions to disburse the same for the foregoing purposes.

AND in default of payment thereof by the Lessee the Lessors 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 Lessors under this lease PROVIDED ALWAYS that if any general rates and other levies fire insurances or other outgoings are hereafter assessed levied and demanded in respect of the said flat as a separate dwelling or interest in the said land then the same shall be paid by the Lessee.

3. THAT the Lessee shall use the flat for residential purposes only and shall not bring into or keep in the flat any cat, dog, birds or other pet which may unreasonably interfere with the quiet enjoyment 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 flat 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 insofar as they affect the use of the flat by the Lessee.

5. The Lessee shall at his own cost keep and maintain the interior of the flat including the doors windows electrical and plumbing apparatus and all fittings of any kind in good order and condition.

6. THE Lessee will not leave or place in the passageways stairways or parking area 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 of by the Lessors.

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7. THE Lessee will not use the flat for any illegal or immoral purposes and will refrain from causing excessive noise or disturbance within 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.

8. (a) IT is a condition of this lease that the Lessee shall at all material times remain owner as 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 a manner that both leasehold and freehold interests are not owned and occupied by the same person then this lease shall be immediately discharged without however discharging the Lessee from payment of any moneys owing hereunder or releasing him from liability arising from any other breach previously committed (provided always that this clause shall not apply to the first Lessee hereof).

(b) 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 in the said flat 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 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.

9. THAT the Lessee will permit the Lessors or their representatives at all reasonable times to enter upon the flat to inspect the condition of the same.

10. 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 such occasion.

11. THE Lessee will duly and punctually pay all charges for water electricity gas or other supplies or services relating solely to the flat.

AND THE LESSORS DO AND EACH OF THEM DO TH HEREBY COVENANT with the Lessee as follows : -

12. 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 without any interruption by the Lessors or any person claiming under them together with the use in common with the other Lessees of flats in the said building of the drives paths and grounds on the said land and of any stairways, balconies and verandahs in the said building for access only to and from such flats.

13. THAT The Lessors shall insure the said building against fire and earthquake to its full insurable value and will take out a 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 the said building agrees to effect and keep current a separate and adequate insurance policy for such parts of the said building each Lessee holds as tenant.

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 the items and matters referred to in paragraph 2 hereof and will cause the building at all times to be managed and maintained on a high standard provided that in performance of the foregoing covenants the Lessors shall have the right to enter the flat upon giving reasonable notice to effect such work.

AND IT IS HEREBY COVENANTED AND AGREED BY AND BETWEEN THE LESSORS AND THE LESSEE : -

15. IF and whenever there shall be any breach or non-observance or non-performance of any covenant condition or agreement on the part of the Lessee contained or implied of which the Lessors shall have given to the Lessee twenty-eight days notice in writing thereof and calling upon him to remedy such breach non-observance or non-performance and if after the expiration of the said notice the Lessee shall fail to remedy such breach non-observance or non-performance it shall be lawful for the Lessors forthwith or any time thereafter to re-enter upon and take possession of the flat or any part thereof in the name of the whole whereupon the term hereby created shall absolutely cease and determine.

16. THAT in the event of any flat or flats being partially or wholly damaged or destroyed by fire or earthquake during the term hereby created all moneys 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 flat or flats 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 flat or flats 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 PROVIDED FURTHER that if the Lessees of each separate flat shall have effected separate insurance as provided in Clause 13 hereof each Lessee shall expend the insurance moneys received by him in reinstatement and making good as aforesaid the damage to his own flat and shall bear any insufficiency himself.

17. 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 by rainwater entering the flat.

18. THAT if any question or difference whatsoever shall arise between the parties to this lease or their respective representatives or assigns or between one of the parties hereto and representatives of the others of them touching these presents or any clause or anything herein contained or the construction hereof as to matter in any way connected with or arising out of these presents or the operations 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.

AND IT IS HEREBY AGREED BY AND BETWEEN the Lessors and each of them : -

19. 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 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 hereinafter appearing in Clause 20(b) hereof.

(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 or 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 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 share 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 Rs. 500 for any one purpose or more than Rs. 1000 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.

20. (a) THE Lessee hereby covenants that he will obey and carry out any such notice in terms of Clause 19 hereof as aforesaid and in the event of the Lessee neglecting or failing to carry out perform observe or pay any act matter thing or moneys in strict compliance with the terms of any such notice in terms of Clause 19 hereof within seven (7) days of the date specified in such notice for the due carrying out performance observance or payment as aforesaid (or in the event of no date being specified in such notice then within seven (7) days of the date of the receipt of such notice by the Lessee) and/or in the event of this lease being determined or becoming determinable for a period of seven (7) days then the Lessee doth hereby irrevocably appoint the Lessors or such of them as shall then be willing and able to so act as the Lessee's attorneys upon such Lessors thereupon electing so to act and serving written notice in that behalf upon the Lessee to be the true and lawful attorneys of the Lessee for him and in his name and on his behalf to ask demand sue for recover and receive all or any sum or sums of money due to or become due to the Lessee touching any matter herein contained or implied to demand enforce and procure compliance with and observance of all covenants conditions and provisions herein contained or implied to pursue and exercise all remedies and powers herein contained or implied to dispose of the Lessee's said interest in the fee simple of the said land and or in and under the said lease hereby created and for such purposes to sign make execute complete deliver stamp and register all the necessary instruments deeds documents and writings of every description as fully and effectually as if the Lessee were personally present and acting therein PROVIDED THAT the Lessors shall not be bound to take any steps hereby empowered nor shall the Lessors be responsible for any involuntary loss arising upon the pursuit or exercise of any remedies or authorities hereunder and PROVIDED FURTHER that no person or persons corporation or corporations or authority or authorities dealing with the Lessors as attorneys for the Lessee shall be concerned to see or enquire as to the propriety or expediency of any act deed matter or thing which the Lessors as attorneys of the Lessee may do or perform or purport to do or perform or agree to do or perform in the name of the Lessee by virtue of the foregoing provisions AND PROVIDED THAT and the foregoing is subject to the condition that in every case before the power of attorney granted by this clause can be exercised to dispose of any party's interest in the said fee simple a further notice in writing must be served on such party giving him or her twenty-eight days to request that the matter be referred to arbitration. If such party refuses or neglects within such twenty-eight days to reply in writing requesting reference to arbitration then the said power of attorney may be exercised forthwith but otherwise the matter shall be referred to arbitration in all respects as if a majority decision could not be reached pursuant to the preceding clause.
- (b) IT IS further mutually agreed and declared and covenanted that any notice required to be given or served touching anything contained or implied in this Memorandum of Lease shall be deemed to have been validly and effectually given and/or served in full compliance with the terms and conditions of this Memorandum of Lease if such notice or notices shall have been given or served upon the party or parties concerned either personally or by leaving the same at or posting the same to the last known place of abode or address of such party or parties and in the event of such service being effected by post thereof or by affixing the same to the premises demised by the Lessors hereof to the party or parties concerned (being part of the said building) by securely affixing the same to the main or front door exterior thereof and service shall be deemed to have been effected on the day after affixing thereof as aforesaid.
21. THE Lessee shall have the right to let the flat to a reputable tenant for any reasonable period when the Lessee cannot personally occupy the same provided that the Lessee shall ensure that a Tenancy Agreement is signed protecting rights under this lease.
22. THE parties agree that there shall be no merger in the event of the Lessee acquiring or remaining a proprietor of a freehold estate in the said land.
23. NOTWITHSTANDING anything in this Lease contained or any statute or rule of law to the contrary upon the registration of a disposition (in this clause meaning a transfer transmission or other absolute assignment or disposition but excluding a disposition by way of mortgage or charge) of the Lessor's interest herein or of any subsequent Lessor's interest herein and upon the registration of a disposition as hereinbefore defined of the Lessee's interest herein or of any subsequent Lessee's interest herein the disposing Lessor or Lessee as the case may be shall in respect of his or her liability under this Lease be in the same position as if he or she had disposed not of a Lessor's or Lessee's interest but of an estate in fee simple that is to say his or her liability under the covenants agreements and provisos herein expressed or implied shall be absolutely extinguished.
24. THAT the Lessee will not at any time hereafter enter upon the land or in any manner use the land marked A. B. C. D. on Flats Plan 74759 to the end and intent that the restriction imposed by the foregoing covenant shall be forever hereafter appurtenant to Flat 4 on Flats Plan 74759 for all purposes connected with the use occupation and enjoyment thereof

The abovenamed Lessee DOTH 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 17th day of November 1974

Signed by the abovenamed ROY CLARK
and MARJORIE JOAN CLARK

as Lessors in the presence of:

Signed by the abovenamed ROY CLARK
and MARJORIE JOAN CLARK

as Lessee in the presence of:

M. J. Clark
R. Clark

M. J. Clark.
R. Clark

J. H. Clark
S. Clark
W. H. Clark

No.

Lease of FLAT 4

D.P. 74759

[Signature]
Solicitor for Lessee

R. & M. J. CLARK

Lessors

R. & M. J. CLARK

Lessee

REGISTERED IN TRIPLICATE

Particulars entered in the Register-Book,

Volume	Folio
the	day of 19
at	o'clock

District
Assistant Land Registrar
of the District of North Auckland

Composite Certificate of Title issued
Register 304/862
Including $\frac{1}{5}$ share in fee simple.

JOHNSON, HOOPER & NORTH
SOLICITORS
WHANGAREI



MAY 1 10 42 AM '75

DISTRICT LAND REGISTRY
AUCKLAND RD. 5

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[Signature]

