

B915680.2 L

Approved by the Registrar-General of Land, Wellington No. 212336.

NORTH AUCKLAND
Land Registry Office

MEMORANDUM OF LEASE

LESSORS: KEITH HAY HOMES LIMITED at Auckland, ROBERT JOHN DAVIS of Auckland, Electrician and ROBYN LEE DAVIS his wife, jointly inter se and JOHN ERNEST SWEETMAN of Auckland, Insurance Broker and JULIE MARIE SWEETMAN his wife jointly

LESSEE: inter se all as tenants in common in equal shares

LESSEE: KEITH HAY HOMES LIMITED at Auckland

SCHEDULE OF LAND AND FLAT

| Lessors Estate | Fee Simple | |
|--|--|--|
| C.T. REFERENCE | DESCRIPTION OF LAND AND LOCALITY | DESCRIPTION OF FLAT |
| 27A/1354, 60A/306, 70B/31, 70B/32, 71B/480, 72A/479, 73A/400 3203M ² | Lot 1 Deposited Plan 70548 and being part Section 13 Block IX Situated in the Hatana Hamlet | Flat No. 3 on Deposited Plan 124664 (hereinafter called "the Flat") which is part of a building erected on the said land comprising Flats Nos as shown on the said plan (hereinafter called "the said building"). |

Encumbrances, Liens, and Interests:

Fencing Covenants in Transfers 173412, 157631 and 312928.2
 Lease No: B.647963.1 and Restrictive Covenant contained therein
 Lease No: B.762419.1 and Land Covenant contained therein
 Lease Nos: B.762419.2, B.836386.1, B.836386.2 and Land Covenants contained therein
 Lease No: and Land Covenant contained therein

TERM 999 years commencing on the 26th day of March 19 87

RENTAL 10 cents per annum payable yearly in advance if demanded in writing by the Lessors prior to the commencement of the year for which it is payable.

CONDITIONS The parties hereby agree that:

- The covenants conditions and agreements set out in Schedules A, B & C herein form part of this Lease.
- ~~In any case where the Lessors are proprietors of a leasehold estate in the said land the covenants conditions and agreements set out in Schedule D herein form part of this Lease.~~
- The words "Flat share" shall be deemed to mean a ~~one~~ whole share calculated in terms of the ~~number of flats contained in the said building.~~
- The words "Land share" shall be deemed to mean a one seventh share calculated in terms of the ~~number of flats contained in all buildings erected on the said land.~~
- In respect of Clauses 6, 13 & 22 in the Schedules hereto where neither sub-clause (a) or sub-clause (b) has been deleted, sub-clause (a) shall form part of this Lease as hereinbefore provided and sub-clause (b) shall not.

AND the Lessors DO HEREBY LEASE to the Lessee and the Lessee DOTH HEREBY ACCEPT this Lease of the Flat to be held by the Lessee as tenant and subject to the conditions restrictions and covenants set forth herein.

IN WITNESS WHEREOF these presents have been executed this 21 day of October 19 87

SIGNED by the said ROBERT JOHN DAVIS and ROBYN LEE DAVIS as Lessors

SIGNED by the said JOHN ERNEST SWEETMAN and JULIE MARIE SWEETMAN as Lessors in the presence of:

in the presence of:

S. G. MOUNT
Legal Executive 10 Kensington Drive
Solicitors Auckland

THE COMMON SEAL of KEITH HAY HOMES LIMITED as Lessor

was hereunto affixed in the presence of:



John Ernest Sweetman

SCHEDULE A (Lessee Covenants)

THE LESSEE DOETH HEREBY COVENANT WITH THE LESSORS:

1. PAYMENT OF RENT
To pay the rent in the manner and at times heretofore provided.
 2. PAYMENT OF MAINTENANCE EXPENSES
The Lessee shall forthwith upon demand in writing by the Lessors or their agent pay to the Lessors or a person nominated by the Lessors or a majority of the Lessors:
(a) A Flat share of all costs and expenses properly incurred by the Lessors in respect of the said building including any costs and expenses incurred pursuant to Clause 17 (a) hereof.
(b) A Flat share of all costs and expenses properly incurred by the Lessors in respect of the said land including any costs and expenses incurred pursuant to Clause 17 (a) hereof.
- PROVIDED ALWAYS that should any repairs become necessary or any work be required in respect of any part of the said building or the electrical and plumbing equipment, drains or other amenities serving the said building or in respect of any part of the said land as a result of the negligence or willful act either of the Lessee or his servants, agents or invitees or of any person residing in the Flat then in any such event the Lessee shall pay to the Lessors the whole or the cost of such repairs or work.
3. RESTRICTIONS ON USE
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 is or may be an annoyance, nuisance, grievance or disturbance to the other Lessees or occupants of any building on the said land and shall not bring into or keep in the Flat any car, dog, pig or other pet which may unreasonably interfere with the quiet enjoyment of the other Lessees or occupants of any building on the said land or which may create a nuisance.
 4. NOT TO CREATE FIRE OR OTHER HAZARDS
The Lessee shall not bring into or keep in the Flat any goods or any substance of a highly combustible nature or do or permit to be done anything including the unauthorised use of light or power fittings which may render an increased premium payable for any insurance cover on any part of the said building or which may make void or voidable any such insurance cover.
 5. TO COMPLY WITH STATUTES
The Lessee shall not use the Flat for any illegal purposes and the Lessee shall comply with all Statutes, Regulations and By-Laws of any Local Authority in so far as they affect the Flat.
 6. (a) MAINTENANCE OF EXTERIOR AND INTERIOR BY LESSEE
The Lessee shall at his own cost and expense keep and maintain in good order condition and repair both the interior and exterior of the Flat including any electrical and plumbing equipment, drains, roof, spouting, downpipes and other amenities serving the Flat PROVIDED HOWEVER that where any part of the Flat or the electrical and plumbing equipment drains or other amenities serving the Flat may relate to or serve (a) any other flat in any building erected on the said land or (b) any part of any such building which the Lessors are liable to maintain pursuant to this Lease, then the same shall be maintained in good order condition and repair by the Lessee together with (a) the Lessees of the other flats to which the same relate or which are served thereby and (b) the Lessors where the same relate to or serve any part of any such building AND the cost of so doing shall be borne by the Lessee, the Lessees of such other flats and the Lessors as the case may be in such shares as may be fair and reasonable having regard to the use and benefit derived therefrom.

OR

7. (a) MAINTENANCE OF INTERIOR ONLY BY LESSEE
The Lessee shall at his own cost and expense keep and maintain in good order condition and repair the interior of the Flat including the doors, windows and fittings of any kind but not any part of the structure, frame work or foundations together with any other part of the said building or which may make void or voidable any such insurance cover.
7. INSPECTION BY LESSORS
The Lessee shall permit the Lessors or their representatives at all reasonable times to enter the Flat to inspect the condition of the same.
 8. TO KEEP COMMON AREAS CLEAR AND TIDY
The Lessee shall not leave or place in the passageways or stairways of the said building or in any parking area or in the grounds surrounding any building on the said land any obstructions whatsoever and shall not deposit any refuse or rubbish thereon, or thereon or on any place any rubbish containers in such reasonable location approved by the Lessors.
 9. TO PAY FOR SERVICES TO FLAT
The Lessee shall duly and punctually pay all charges for water electricity gas or other supplies or services relating solely to the Flat.
 10. NOT TO MAKE STRUCTURAL ALTERATIONS
The Lessee shall not make any structural alterations to the said building nor erect on any part of the said land any building, structure or fence without the prior consent of the Lessors that has and obtained on each occasion PROVIDED HOWEVER that such consent shall not be unreasonably withheld.
 11. USE OF EXCLUSIVE AND COMMON AREAS
The Lessee shall not without the written consent of the Lessors in any way use or enjoy any part of the said land except: (a) The Flat; (b) That part of the said land relating to the Flat marked or shown on Deposited Plan No. ; (c) That part of the said land marked or shown on Deposited Plan No. but only for the purposes of accessible ingress and egress by vehicle or on foot.
 12. PRESERVATION OF LESSEE'S EXCLUSIVE AREA
The Lessee shall at all times keep all that part of the said land and all amenities thereon relating to the Flat marked or shown on Deposited Plan No. in a neat and tidy condition and in good repair.
 13. SEPARATE INSURANCE EFFECTED BY LESSEE
The Lessee shall effect and at all times keep current a separate and comprehensive insurance policy (including fire and earthquake risks) to the full insurable value thereof on such parts of the said building as such Lessee holds as tenant.

OR

SCHEDULE B (Lessors Covenants)

1. PAYMENT OF PREMIUM ON REPLACEMENT POLICY EFFECTED BY LESSORS
The Lessee shall pay to the Lessors or a person nominated by the Lessors a Flat share of a majority of the premium and other moneys payable in respect of the policy of insurance to be effected by the Lessors pursuant to Clause 20 (b) hereof PROVIDED THAT in any case whereby arrangements are made for the insurance company the premium in respect of such Flat in the said building shall be assessed and payable separately to the Lessors and the Lessee shall pay the separate premium wherever the same is due direct to the insurance company and shall if and whenever required by the Lessors produce to the Lessors the receipt for payment of the same.
2. LESSEES OWNERSHIP OF SHARE IN FEE SIMPLE
The Lessee shall remain the owner of a Flat 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 authorises or so do shall deal with either his interest hereunder or his interest in the fee simple in such a manner that both legal and equitable interests are not owned by the same person then this Lessee shall immediately determine without however discharging the Lessee from payment of any monies 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.
3. PAYMENT OF RATES
The Lessee shall pay all charges and rates separately charged or levied in respect of the Flat and the Lessee's undivided share in the fee simple of the said land PROVIDED HOWEVER that if no separate charges and rates are so charged or levied then the Lessee shall, pay to the Lessors the Lessee's Flat share of the charges and rates charged or levied in respect of the whole of the said land.

SCHEDULE C (General Covenants)

- THE LESSORS DO AND EACH OF THEM DOETH HEREBY COVENANT WITH THE LESSEE:
1. QUIET ENJOYMENT
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.
 2. MAINTENANCE BY LESSORS
The Lessors shall keep and maintain in good order repair and equipment:
(a) Such parts of the said building as are not the responsibility of any Lessee pursuant to the covenants granted in respect of any flat including such parts of the said building including the electrical and plumbing equipment, drains, roof, spouting, downpipes and other amenities serving the same; and
(b) Such parts of the said land including the grounds, paths, fences, swimming pools and other common amenities thereon as are not the responsibility of any Lessee pursuant to the covenants granted in respect of any flat.
AND where the responsibility of the Lessors or their agents shall have the right if necessary to enter the Flat in order to effect such work upon giving reasonable notice to the Lessee.
 3. LEASES OF OTHER FLATS
The Lessors shall lease the other flats on the said land only on terms similar to those set forth in this Lease and whenever called upon by the Lessee so to do to enforce the due performance and observance by the Lessee named in such other leases of all obligations as by such other leases are owed to such Lessee and for the purposes aforesaid the Lessors do irrevocably hereby appoint the Lessee hereunder for the time being as the Attorney and in the name of the Lessors to do all such acts and in particular but not in limitation to serve such notices and institute such proceedings as may be necessary for the proper compliance by the Lessors of the obligations cast on them by this Clause.

SCHEDULE D (General Covenants)

- AND IT IS HEREBY COVENANTED AND AGREED BY AND BETWEEN THE LESSORS AND EACH OF THEM AND BY AND BETWEEN THE LESSORS AND THE LESSEE:
1. DETERMINATION OF LEASE FOR DEFAULT
Ten 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 the said Lessee shall save remainer such breach or default in all respects within two months of the date of receipt by the Lessee of written notice from the Lessors other than the Lessee specifying such breach or default then it shall be lawful for the Lessors (other than the Lessee) to re-enter 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 PROVIDED HOWEVER that any such re-entry or determination shall be void and of no effect unless a copy of the notice specifying the breach or default by the Lessee has been served on every mortgagee of this Lease where the Lessors have actual notice of the address of the Mortgagee before or within seven days after the date of service of such notice upon the Lessee.
 2. RE-INSTALLMENT BY LESSEE (where Clause 19a) applies
That in the event of the Flat being destroyed or damaged by fire earthquake or from any cause whatsoever during the term hereby created the Lessee shall with all reasonable despatch repair and make good such destruction or damage to the reasonable satisfaction of the Lessors and the cost of so doing shall be borne by the Lessee AND in the event of such destruction or damage occurring in respect of any part of the said building not owned by the Lessee pursuant to any lease then the Lessee shall with all reasonable despatch repair and make good such destruction or damage and the Lessee shall bear a Flat share of the cost of so doing.
- OR
3. RE-INDEMNIFICATION BY LESSORS (where Clause 19b) applies
That the Lessors shall in the name of the Lessors and Lessee by their respective rights and interests insure and keep insured the said building against fire and earthquake and such other risks as are normally covered under a comprehensive fire and earthquake policy for the full amount available under a replacement policy and shall pay the premiums on such policies if and when payable AND in the event of the said building being destroyed or damaged by any cause whatsoever the Lessors shall repair and make good such destruction or damage and the cost of so doing shall be borne by the Lessors AND in the event of the said building being destroyed or damaged by any cause whatsoever the Lessee shall bear a Flat share of such reconstruction or repair and make good such destruction or damage as aforesaid then the Lessee shall bear a Flat share of such reconstruction or repair and make good such destruction or damage by the negligence of one or more of the Lessors in which case the Lessee shall be liable to contribute to the cost of such reconstruction or repair and make good such destruction or damage in such shares as may be fair and reasonable having regard to the use and benefit derived therefrom.

12. b. PAYMENT OF PREMIUM ON REPLACEMENT POLICY EFFECTED BY LESSORS

The Lessee shall pay to the Lessors or a person nominated by the Lessors or a majority of the Lessors a Flat share of the premium and other moneys payable in respect of the policy of insurance to be effected by the Lessors pursuant to Clause 20 (b) hereof PROVIDED THAT in any case whereby arrangements between the Lessors and the insurance company the premium in respect of each Flat in the said building shall be assessed and payable separately, then the Lessee shall pay the separate premium whenever the same is due direct to the insurance company and shall if and whenever required by the Lessors produce to the Lessors the receipt for payment of the same.

14. LESSEES OWNERSHIP OF SHARE IN FEE SIMPLE

The Lessee shall remain the owner of a Land 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 said land and feehold interests are not owned by the same person then this Lessee shall immediately determine 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.

15. PAYMENT OF RATES

The Lessee shall pay all charges and rates separately charged or levied in respect of the Flat and the Lessee's undivided share in the fee simple of the said, and PROVIDED HOWEVER that if no separate charges and rates are so charged or levied then the Lessee shall pay to the Lessors the Lessee's Land share of the charges and rates charged or levied in respect of the whole of the said land.

SCHEDULE B (Lessors Covenants)

THE LESSORS DO AND EACH OF THEM DOth HEREBY COVENANT WITH THE LESSEE:

13. QUIET ENJOYMENT

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.

17. MAINTENANCE BY LESSORS

The Lessors shall keep and maintain in good order repair and condition **any building erected on the said land**

a. Such parts of **any building erected on the said land** as are by the responsibility of any Lessee pursuant to the leases granted in respect of any flat **including the electrical and plumbing equipment, drains, roofs, spouting, downpipes and other**

b. Such parts of the said land including the grounds, paths, fences, swimming pools and other common amenities thereon as are not the responsibility of any Lessee pursuant to the leases granted in respect of any flat.

AND in the event of any such building or any part thereof being damaged or destroyed or in need of repair or maintenance the Lessors shall be under the obligation to effect such work upon giving reasonable notice to the Lessee.

18. LEASES OF OTHER FLATS

The Lessors shall lease the other flats on the said land only on terms similar to those set forth in this Lease and wherever called upon by the Lessee so to do to enforce the due performance and observance by the lessees named in such other leases of all obligations as by such other leases are contained and in the performance of the Lessee do irrevocably hereby appoint the Lessee hereunder for the time being as the Attorney and in the name of the Lessors to do all such acts and in particular but not in limitation to serve such notices and institute such proceedings as may be necessary for the proper compliance by the Lessors of the obligations cast on them by this Clause.

SCHEDULE C (Mutual Covenants)

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

19. DETERMINATION OF LEASE FOR DEFAULT

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 two months of the date of receipt by the Lessee of written notice from the Lessors other than the Lessee specifying such breach or default then it shall be lawful for the Lessors other than the Lessee to re-enter 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 hereon and to evict 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 PROVIDED HOWEVER that any such forfeiture or determination shall be void and of no effect unless a copy of the notice specifying the breach or default by the Lessee has been served on every mortgagee of this Lease where the Lessors have actual notice of the address of the mortgagee before or within seven days after the date of service of such notice upon the Lessee.

20. a. RE-INSTATEMENT BY LESSEE where Clause 19a applies

That in the event of the Flat being destroyed or damaged by fire earthquake or from any cause whatsoever during the term hereby granted the Lessee shall, with all reasonable despatch repair and make good such destruction or damage to the reasonable satisfaction of the Lessors and the cost of so doing shall be borne by the Lessee AND in the event of such destruction or damage occurring in respect of any part of the said building not held by the Lessee pursuant to any lease then the Lessee shall with all reasonable despatch repair and make good such destruction or damage and the Lessee shall bear a Flat share of the cost of so doing.

OR

20. b. RE-INSTATEMENT BY LESSORS where Clause 19b applies

That the Lessors shall in the course of the Lessors and Lessee the their respective rights and interests hereon and keep insured the said building against fire and earthquake and such other risks as are normally covered under a comprehensive Home owners policy for the full amount available under a replacement policy and shall pay the premiums on such policy as the same become due AND in the event of the said building being destroyed or damaged by any cause whatsoever the Lessors shall with all reasonable despatch repair and make good such destruction or damage and in the event of the moneys received under the said policy of insurance being insufficient to repair and restate the said building as aforesaid then the Lessee shall bear a Flat share of such insufficiency unless such damage or destruction was caused by the negligence of one or more of the Lessors in which case the reparation shall be borne by that party or those parties.

21. LESSORS NOT LIABLE FOR WATER DAMAGE

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 rainwater entering the Flat.

22. a) SUBLETTING BY LESSEE

The Lessee shall be entitled to let the Flat only to a reputable and solvent person and the Lessee shall ensure that the sub-tenant does not enter into a tenancy agreement with the Lessee whereby the subtenant covenants not to do or permit anything to be done in upon or around the Flat 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.

OR

22. b) RESTRICTED SUBLETTING BY LESSEE

The Lessee shall not without the prior consent in writing of the Lessors or a majority of the Lessors do let and obtained for that purpose on every occasion stated or part with the possession or occupation of the Flat or any part thereof but such consent shall not be unreasonably or arbitrarily withheld in any case where:-

- a) the proposed subletting is for a term not exceeding one year during which the Lessee is unable to personally occupy the Flat and, the proposed subletting is to a reputable and solvent person who has entered into a Deed of Covenant with the Lessors to observe paragraphs 22 and 23 of the obligations of the Lessee hereunder and to be bound by the provisions of this present clause such Deed of Covenant to be prepared by the solicitor for the Lessors at the cost and expense of the Lessee.

Any underletting within the meaning of Subsection (2) of Section 109 of the Property Law Act 1952 without such consent as aforesaid shall constitute a breach of this present clause.

23. PERFORMANCE OF LESSEES COVENANTS BY LESSORS

That in 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 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 due in and to perform all or any acts or things in the interest 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 conferred upon the Lessors to enter by Servants agents contractors or workmen upon the Flat or any part thereof AND the Lessee will irrevocably and demand pay to the Lessors all moneys so paid by the Lessors and the costs charges and expenses of such performance and observance 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 Ten per cent per annum per annum computed from the date of respective dates of such moneys being expended and payment thereof to the Lessors PROVIDED HOWEVER that for the purposes of this Clause 23 the word "Lessors" shall be deemed to mean Lessors other than the Lessee.

24. POWER OF SALE OF LESSEES FLAT BY LESSORS

That in the event of this lease being determined in the manner herein provided then in any such case:-

- a) the Lessee shall at the direction of the Lessors sell his share in the fee simple of the said land to such person and at such consideration as may be nominated by the Lessors and shall execute all such documents as shall be required to complete any such sale; and
- b) the Lessors shall use reasonable endeavours to obtain a fair market price for the Lessee's said share in the fee simple but shall not be liable to the Lessee in respect of any loss howsoever incurred; and
- c) the proceeds of such sale shall be paid to the Lessors who shall be entitled to deduct therefrom all moneys owing by the Lessee to the Lessors and also all expenses and costs howsoever incurred by the Lessors in connection with the arranging of such sale and the completion thereof, and any balance of such proceeds shall be paid to the Lessee by the Lessors;

AND the Lessee do hereby irrevocably appoint the Lessors to be the Attorneys of the Lessee for the purpose of doing any act matter or thing or executing any document required in connection with the sale of the Lessee's said share in the fee simple in the event of the Lessee making default in so doing and no action shall be commenced by or on behalf of the Lessee or the property or expediency of any act matter or thing done or agreed to be done by the Lessors pursuant to this Clause AND the Lessee hereby agrees to allow rates and covenants whatever the Lessors shall do or cause to be done by any of the powers herein conferred or from PROVIDED HOWEVER that for the purposes of this Clause 24 the word "Lessors" shall be deemed to mean Lessors other than the Lessee.

25. NOV-MERGER

That there shall be no merger of this Lease with the Lessee's freehold estate in the said land.

26. ARBITRATION

That if any dispute or 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 at the time of their relating to these presents or any cause or business herein contained or the construction hereof or as to duties or liabilities of either party in connection with the said land, the said building or the Flat or as to the use or occupation thereof then and in every such case the matter in difference shall be referred to arbitration in accordance with the Arbitration Act 1950 and its Amendments or any Act in substitution thereof.

27. PROCEDURE FOR DECISIONS

That in the event of the Lessee or any Lessee 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 buildings thereon or which may be desirable for the efficient and harmonious administration of the said land and the buildings thereon the following procedure shall be carried out:-

- a) Such Lessee or Lessee 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 to or posting the same to the last known respective place of abode or address of the other Lessors and in the event of such notice 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 the proposed action is not agreed to unanimously within fourteen days after the last date of service of the said notice that matter shall be deemed to be a question to be submitted pursuant to Clause 26 hereof.
- c) The parties hereto shall be bound by any decision arrived at in accordance with the provisions of this Clause and the parties hereto shall give all reasonable assistance in the execution of such decision.

[Handwritten signature]

[Handwritten signature]

28. COLOUR SCHEME

That notwithstanding the provisions of Clause 27 hereof, any exterior painting of the said building shall be carried out in such a colour scheme as is agreed upon by the Lessors but if agreement cannot be reached then the colour scheme shall be as near as is practicable to the existing colour scheme.

29. NON-DEVOLUTION OF LIABILITY

That without negating the provisions of Sections 97 and 98 of the Land Transfer Act 1952, upon registration of a Memorandum of Transfer of the Lessee's interest hereunder to any Transferee, the Transferor shall thenceforth be released from all future liability whatsoever under the covenants and agreements herein expressed or implied but without releasing the Transferor from any liability which may have arisen hereunder prior to the registration of such Memorandum of Transfer and thenceforth after the registration of any such Memorandum of Transfer the obligations herein expressed or implied on the part of the Lessee shall in all respects devolve upon and be observed and performed by such Transferee, and the Lessors shall have no recourse to the Transferee's antecedents in title.

30. INTERPRETATION

That wherever used in these presents:-

- (a) The expression "the Lessors" shall include and bind the person/s executing these presents as Lessors and all the Lessors for the time being under these presents and all the respective executors administrators successors assigns and successors in title of each Lessor and if more than one jointly and severally.
- (b) The expression "the Lessee" shall include and bind the person/s executing these presents as Lessee and all the Lessees for the time being under these presents and all the respective executors administrators successors assigns and successors in title of each Lessee and if more than one jointly and severally.
- (c) The expression "a majority of the Lessors" shall be deemed to mean any number of Lessors for the time being who together own more than an undivided one-half share in the fee simple of the said land.
- (d) Words importing one gender shall include the other gender as the case may require.
- (e) Words importing the singular or plural number shall include the plural or singular number respectively.
- (f) The clause headings shall not form part of this Lease and shall have no bearing on the construction or interpretation of the same.

SCHEDULE D (Special Covenants for Leasehold Estates)

~~31. IT IS HEREBY COVENANTED AND AGREED BY AND BETWEEN THE LESSORS AND THE LESSEE AS FOLLOWS.~~

(a) Interpretation

- (i) The expression "Head Lease" means the Memorandum of Lease referred to in the Schedule of Land and Flat and the expressions "Head Lessor" and "Leasehold Estate" shall have corresponding meanings.
- (ii) The expressions "fee simple" "freehold interest" and "freehold estate" where they occur in Schedules A, B & C hereof shall unless inconsistent with the context refer to and include the leasehold estate.

(b) Lessee to pay share of Head Lease rental

That the Lessee will upon demand in writing by the Lessors pay to the Lessors or a person nominated by the Lessors or a majority of the Lessors a Land share of the rental from time to time payable under the Head Lease and any other moneys expended by the Lessors in the performance of their obligations thereunder or in or about any renewal thereof as hereinafter provided.

(c) Lessee to observe terms of Head Lease

That the Lessee will from time to time and at all times observe perform and keep all and singular the covenants agreements and conditions contained and implied in the Head Lease so far as they affect the Flat and will save and keep harmless and indemnify the Lessors from and against all costs claims damages expenses actions and proceedings for or on account of breach of covenant or otherwise under the Head Lease as shall be occasioned by breach by the Lessee of any covenant condition or agreement herein contained or implied and on his part to be observed performed or fulfilled.

(d) Lessors to pay Rent and observe Covenants:

That the Lessors shall and will throughout the term hereby created pay the rent reserved by and duly and punctually perform and observe all and singular the covenants and provisions expressed or implied in the Head Lease and on the part of the Lessee thereunder shall be performed and observed and will not do omit or suffer any act or thing whereby or in consequence whereof the power of re-entry into possession, or any of the incidental ancillary or subsidiary powers vested in the Head Lessor by the Head Lease shall or may become exercisable.

(e) Rights of Renewal

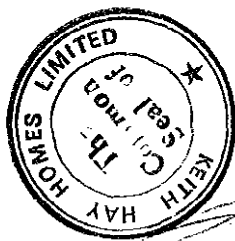
That the Lessors will from time to time and so often as the same shall require to be done and at all proper times for so doing give all such notices do all such things execute all such documents and pay all such costs, charges and expenses as shall or may be necessary or desirable to procure from the Head Lessor the renewal of the Head Lease and of every lease so procured AND when and so often as the Head Lessor shall grant and execute unto the Lessors hereunder a new Head Lease as aforesaid the Lessors hereunder will at the cost and expense of the Lessee hereunder deliver unto the Lessee hereunder and the Lessee hereunder shall accept and take in substitution for this present sublease or (as the case may be) for the then last preceding sublease of the Flat for the term of such newly granted head lease less the last day thereof a sublease, at the same Flat share of rental and upon with and subject to the same covenants agreements conditions and provisions as are herein contained and implied including this present clause AND for the better enabling the Lessee hereunder to secure and enjoy the benefit of this present Clause the Lessors for the time being hereunder DO HEREBY JOINTLY AND EACH OF THEM BOTH SEVERALLY IRREVOCABLY NOMINATE CONSTITUTE AND APPOINT the Lessee for the time being hereunder the Attorney for them and each of them and in their name and in the name of each of them to give all such notices and to do all such acts matters and things and to make all such appointments and to pay all costs, charges and expenses and to give, make execute and deliver all such documents and paper writings as shall for all or any of the purposes aforesaid be desirable necessary or expedient.

2
7
7
7

5
11
11

5
11
11

THE COMMON SEAL of KEITH HAY
HOMES LIMITED as Lessee
was hereunto affixed
in the presence of:



[Large stylized signature]

[Handwritten initials]

SCHEDULE C (CONTINUED)

31. THAT the Lessors other than the Lessees shall not during the term hereby created be entitled to use occupy or enjoy that part of the said land adjacent to the flat shown marked C on Deposited Plan 124664 (hereinafter called "the said area") TO THE INTENT that the foregoing restrictive covenant shall at all times during the term hereof remain appurtenant to the estate and interest of the Lessee in the flat for all purposes connected with the use occupation and enjoyment thereof PROVIDED HOWEVER the Lessors or their agents shall be entitled to enter and remain upon the said area to the extent that may be necessary in order to effect the replacement of or repairs or maintenance to any flat or flats situated on any part of the land or any services relating thereto including drainage electrical water or other similar services and for the purpose of access to such services and for the installation of any new such services as may reasonably be required PROVIDED THAT such Lessor so entering or causing such entry in any such case shall as soon as possible make good any disturbance caused to such land or area by such entry and works AND the Lessee shall at all times keep the said area in a neat and tidy condition and in good repair.

32. THAT the expression "the said building" means the Flat" the subject of this lease.

33. THE Lessors and the Lessees will not permit or allow vehicles to be parked or left on that part of the said land shown marked common area on the ~~said~~ Deposited Plan 125236 so as to impede or obstruct the Lessee or any other lawful user from the use of such common area.

REGISTERED IN DUPLICATE

Correct for the purposes of the Land Transfer Act.

[Handwritten signature]

Solicitor for the Lessee

TO: The District Land Registrar
AUCKLAND

It is requested that you note the Lessors restrictive Covenant contained in Clause 31 of the Lease against the fee simple title to the said land.

Composite C.T. 725/202 issued
involves a 77 share in fee simple

ALL:

[Handwritten signature]

.....
Solicitor for the Lessee

LEASE

Particulars entered in the Register as shown in the Schedule of Land herein on the date and at the time stamped below.

.....
District
Assistant Land Registrar
of the District of Wellington

I hereby certify for the purposes of the Stamp and Cheque Duties Act 1971 that no lease duty is payable on this instrument by reason of the application of Section 35 (1) of that Act and that the provisions of subsection (2) of that section do not apply.

[Handwritten signature]

.....
Solicitor for the Lessee

FOLEY LENDRUM & HUGHES
SOLICITORS
AUCKLAND

11.49 16.NOV88 B 915680.2
PARTICULARS ENTERED IN REGISTER
LAND REGISTRY AUCKLAND
ASSISTANT LAND REGISTRAR

