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**Document, Interest, Instrument: 397945**

**Property: 273 Mangorei Road, Merrilands, New Plymouth District**

**Legal Description: Flat 1 Deposited Plan 17497**

**CoreLogic Reference: 3101710/2**

**Processed: 23 November 2022**

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# MEMORANDUM OF LEASE

397945 L

The lessors ALAN HENRY MALCOLM of New Plymouth, Retired and MAUREEN JOAN MALCOLM his wife jointly inter se as to an undivided two thirds share and DIANA MARGARET MONTGOMERIE of Urenui, Chicken Processor as to an undivided one-third share

The lessee ALAN HENRY MALCOLM of New Plymouth, Retired and MAUREEN JOAN MALCOLM his wife

The lessors being registered as proprietors of an estate in fee simple as to an undivided share as tenants in common in the shares as stated subject however to such encumbrances, liens, and interests as are notified by memoranda underwritten or endorsed hereon in all that piece of land described in Schedule A.

## SCHEDULE A Legal Description of Fee Simple

Land Registration District: **TARANAKI**

Area: **758m<sup>2</sup>**

Particulars (including title reference, encumbrances, and appurtenances)

Lot 1 on Deposited Plan 15482 and being all the land comprised and described in Certificate of Title H1/884 and J2/530  
**SUBJECT TO** Rights created by Transfer 332983.2, Fencing Covenant in Transfer 385734.1 and Lease 388527

## Exclusive Use Area of Lessee (Clause 12)

Marked **B** on Deposited Plan No. **17497**

## The Relevant Area for Staged Development (Clause 28)

Marked on Deposited Plan No.

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 the lessee all that the flat numbered \* **Flat 1**

(hereinafter called "the flat") more particularly shown on Deposited Plan No. **17497** being (part) of the building (hereinafter called "the said building") erected on the said land  
To be held by the lessee as tenant for the space of 999 years as from and including the **29th** day of

**May**

**19 92**

at the yearly rental of ten cents

Subject to the following covenants, conditions, and restrictions that is to say:—

1. The lessee covenants with the lessors as set out in schedule B.
2. The lessors do (and each of them does) covenant with the lessee as set out in schedule C.
3. It is hereby covenanted by and between the lessors and the lessee as set out in schedule D. & G.
4. It is hereby covenanted by and between the lessors (and each of them) as set out in schedule E.
5. It is hereby covenanted by and between the lessors (and each of them) and by and between the lessors and the lessee as set out in schedule F.
6. The parties agree that the term "flat share" means "one **two-third** share" and that the term "land share" means "one **two-third** share".

7. The lessee accepts this lease to be held by him as tenant subject to the conditions, restrictions, and covenants set forth herein.

\* If garage, carport, or storage is included in definition of "flat", add description.

**1**

**LT23C**

DATED this 16th day of December 1992

Executed by the lessors

**ALAN HENRY MALCOLM and  
MAUREEN JOAN MALCOLM**

*Alan Malcolm*  
*Maureen Malcolm*

(by the affixing of its common seal)  
in the presence of

**V. ROSE**

LEGAL EXECUTIVE TO GOVETT, QUILLIAM & CO.  
NEW PLYMOUTH

Executed by the lessee

**ALAN HENRY MALCOLM and  
MAUREEN JOAN MALCOLM**

*Alan Malcolm*  
*Maureen Malcolm*

(by the affixing of its common seal)  
in the presence of

**V. ROSE**

LEGAL EXECUTIVE TO GOVETT, QUILLIAM & CO.  
NEW PLYMOUTH

Executed by the Lessor  
**DIANA MARGARET MONTGOMERIE**  
in the presence of:

*Diana Montgomerie*

*[Signature]*  
*Enoch*  
*New South*

**SCHEDULE B**  
Lessee's Covenants

**\*flats on the said land**

**Pay Outgoings**

**Pay Rent and Rates**

1. (1) The lessee shall pay the rent annually in advance, provided that the lessors have demanded payment by notice in writing served upon the lessee during the period of one calendar month following the beginning of the rental year in respect of which it is payable.

(2) The lessee shall pay all rates and charges which are separately levied or charged in respect of the said flat, and in respect of the lessee's undivided share in the said land.

(3) To the extent that no separate rates or charges are so levied or charged, the lessee shall pay to the lessors a land share of the rates and charges levied or charged in respect of the whole of the said land.

**Pay Maintenance Expenses**

2. (1) Subject to subclause (2) (upon demand in writing by the lessors or a person duly nominated by the lessors or a majority of the lessors pursuant to clause 22) the lessee shall pay:

(a) A flat share of all costs and expenses properly incurred by the lessors in respect of the said building, and

(b) A land share of all costs and expenses properly incurred by the lessors in respect of the said land.

(2) Any repairs required or work done in respect of any part of the said land or the said building or any services connected with or required for the said land or the said building which arise directly from the negligent act or wilful omission of the lessee, his servants, agents, or invitees, or of any person residing in the said flat, shall be the sole responsibility of the lessee and he shall pay to the lessors the whole of the cost accordingly.

**Residential Purposes only — No Pets**

3. The lessee shall use the flat for residential purposes only and shall not bring into or keep in the flat any cat, dog, bird, 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.

**flats on the said land**

**Not Create Fire Hazard**

4. 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 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.

**Keep Clear of Rubbish common area \*flats**

5. The lessee shall 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 shall not deposit any refuse or rubbish therein or thereon and shall place any garbage cans in the location approved of by the lessors or a majority of them.

**Not Cause Nuisance**

6. The lessee shall not use the flat for any illegal or immoral purposes and shall refrain from causing excessive noise or disturbance within the flat which may be likely to cause a nuisance or an annoyance to the lessors or to the occupants of any of the other flats in the said building.

**Right to Inspect on the said land**

7. The lessee shall permit the lessors or their representatives at all reasonable times to enter upon the flat to inspect the condition of the flat.

**No Structural Alterations**

8. The lessee shall not (without the consent in writing of the lessors or a majority of them for that purpose on every occasion first had and obtained) make any structural alterations to the flat, or to any partition walls therein, or to any passageway or stairways leading thereto, and shall not take any action which might constitute danger or risk to the said building.

**Pay Electricity, etc.**

9. The lessee shall duly and punctually pay all charges for water, electricity, gas, or other supplies or services relating solely to the flat.

SCHEDULE G

Common Area: That part of the land on Deposited Plan 17497 and marked "X" (called the "driveway")

1. To Keep Common Area Clear and Tidy

- (a) Not to leave or place in the driveway any obstruction of any kind.
- (b) Not to deposit any refuse or rubbish on the driveway.
- (c) Not to park or leave any vehicle or other thing on any part of the driveway so as to unreasonably obstruct its use by any other Lessee or persons lawfully entitled to use it and not to permit or suffer any servant, agent or visitor of the Lessee to do so.

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a series of loops and a horizontal stroke at the bottom.

## SCHEDULE C

### Lessors' Covenants with Lessee \* flats on the said land

#### Lessee's Rights to Exclusive Occupation

10. 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.

#### Leases of Other Flats

11. (1). The lessors shall lease the other flats on the said land only upon terms similar to the terms of this lease.

(2) Whenever called upon to do so by the lessee, the lessors shall enforce the due performance and observance by the lessees under those other leases of all obligations which are imposed upon them by those other leases.

(3) For the purposes of this clause, and in consideration of the lessee entering into this lease, the lessors hereby irrevocably appoint the lessee their attorney to do everything which the lessors covenant by this clause No. 11 to do (including the service of notices and institution of proceedings) as may be necessary to ensure compliance by the lessors with the obligations imposed on them by this clause.

#### Use of Exclusive Areas

12. The lessors do, and each of them does, HEREBY COVENANT that the lessors (other than the lessee) throughout the term of this lease shall not use or occupy and the lessors shall not permit any lessee or lessees of the said land or any building situated on the said land to use or occupy that part of the said land described on page 1 as "exclusive use area of lessee" ("the said area").

TO THE INTENT that this restrictive covenant shall be forever appurtenant to the estate and interest of the lessee for the time being under this lease.

PROVIDED ALWAYS that this covenant shall not operate as a restriction on the use of the said area by the lessee for the time being under this lease.

PROVIDED FURTHER that the lessors shall be entitled to enter upon the said area to the extent that may be necessary in order to effect repairs or maintenance to the said building, or to the said area, or any services relating thereto.

AND the lessee shall at all times keep the said area in a neat and tidy condition and in good repair.

## SCHEDULE D

### Covenants Between Lessors and Lessee

#### Retain Ownership of Freehold

13. (1) It is a condition of this lease that the lessee shall at all material times remain owner as proprietor of the undivided 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 determined, without however discharging the lessee from payment of any moneys owing hereunder or releasing him from liability arising from any other breach previously committed.

(2) Notwithstanding any rule of law to the contrary, the transfer by the lessee of his interest hereunder shall operate as a release of the lessee from liability hereunder provided that:

(i) The transferee of the lessee's interest hereunder shall contemporaneously with the grant of such transfer have vested in him the legal and beneficial ownership of the undivided share in the fee simple at the time owned by the lessee, and

(ii) Such transfer shall not release the lessee from any antecedent liability hereunder.

#### Obligations of Lessee

##### Meaning of "Lessors"

14. (1) In this clause the term "lessors" means the lessors of this lease other than the lessee.

##### Clause 23 Notice

(2) The lessee covenants that he will obey and carry out any notice in the terms of clause 23.

##### Lessors May Perform Covenants

(3) If the lessee fails to perform any of the covenants expressed or implied in this lease, then the lessors may (but need not) pay any money and do any things which the lessee covenanted to pay or do.

##### Lessee to Re-imburse Lessors

(4) The lessee shall forthwith on demand pay to the lessors all money so paid by them and the cost incurred by the lessors in performing and observing those covenants.

##### Lessors May Evict Lessee if Breach

(5) It is lawful for the lessors to re-enter the said flat (or any part of it in the name of the whole), and to evict the lessee but without thereby releasing the lessee from any liability for any breach, non-observance, or non-performance of any of the provisions of this lease, and without terminating this lease, if all the following conditions are satisfied:

(a) If and whenever the lessee has made any breach of any of the provisions of this lease, and

(b) The lessors have served upon the lessee written notice specifying the breach and calling upon him to remedy the breach, and

(c) The lessee has failed to remedy the breach within two months of service of the notice, and

(d) Where the lease is mortgaged and the lessors have actual notice of the address of the mortgagee, the lessors have served a copy of the notice on every mortgagee of this lease not later than seven days after service of the notice on the lessee.

##### See clause 24

##### Water Damage

15. 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.

#### Arbitration

16. If any question or difference whatsoever arises 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, or as to any 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 case (except where the question or difference arises from the observation of the procedure set forth in clause 23 hereof) the matter in difference shall be referred to arbitration in accordance with the Arbitration Act 1908 and its amendments.

#### Insurance and Re-instatement

Delete either clause No. 17 or clause No. 18

##### Lessee to Insure Separately and Re-instate

17. (1) The lessee shall insure and keep insured the said flat to its full insurable value against all risks (including fire and earthquake) which are normally covered by a comprehensive house-owners policy in the form of a full replacement policy.

(2) The lessee shall pay the premiums on or before their due dates. Upon request by the lessors, the lessee shall forthwith produce to the lessors the receipt for the premium.

(3) If the said flat is destroyed or damaged by any cause, then the lessee shall rebuild, or repair the damage, with all reasonable despatch, to the reasonable satisfaction of the lessors.

(4) If the insurance money received is not sufficient to rebuild or to repair the said flat, then the lessee shall pay the insufficiency, unless the damage or destruction was caused by the negligent or wilful act of one or more of the lessors, and in that case the negligent or wilful lessors shall pay the insufficiency.

(5) If any part of the said building is not held by a lessee pursuant to a lease, then the lessors shall rebuild, or repair the damage with all reasonable despatch, and the lessee of the said flat shall meet a flat share of the cost.

##### OR

##### Lessors to Insure and Re-instate

18. (1) Where neither the immediately preceding clause No. 17 nor this clause are deleted, then this clause is deemed to be deleted.

(2) The lessors shall insure and keep insured the said building to its full insurable value against all risks (including fire and earthquake) which are normally covered by a comprehensive house-owners policy in the form of a full replacement policy. The insured shall be the lessors and lessee for their respective rights and interests.

(3) Subject to subclause (4), the lessors shall pay the premiums on or before their due dates. Upon request by the lessee, the lessors shall forthwith produce to the lessee the receipt for the premium.

(4) If the lessors and the insurance company have arranged that the insurance company will separately assess the premium for each flat and will separately receive payment of it, then the lessee shall pay that separate premium direct to the insurance company on or before its due date. Upon request by the lessors, the lessee shall forthwith produce to the lessors the receipt for the premium.

(5) If the said building is destroyed or damaged by any cause, then the lessors shall rebuild, or repair the damage with all reasonable despatch.

(6) If the insurance money received is not sufficient to rebuild or repair the said building, then the lessee shall pay a flat share of that

insufficiency, unless the damage or destruction was caused by the negligence or wilful act of one or more of the lessors, and in that case the negligent or wilful lessors shall pay the insufficiency.

**Lessee to Re-imburse Premium on Replacement Policy Effected by Lessors**

(7) Subject to subclause (4), 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 subclause (2) hereof.

**Repair Provision**

*Delete either clause No. 19 or clause No. 20*

**Lessee to Repair both Interior and Exterior**

19. (1) Subject to subclause (2), 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 said flat including any electrical and plumbing installations, drains, roofs, spouting, downpipes, and other amenities serving the said flat.

(2) Where any part of the said flat or the electrical and plumbing installations, drains, roofs, spouting, downpipes, or other amenities serving the said flat also relate to or serve:

- (a) Any other flat in any building situated on the said land, or
- (b) Any part of any such building which the lessors are liable to maintain pursuant to this lease,

then they 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 by them, and
- (b) The lessors (where they relate to or serve any part of any such building).

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 from

them.

OR

**Lessee to Maintain only Interior**

20. (1) Where neither the immediately preceding clause No. 19 nor this clause are deleted, then this clause is deemed to be deleted.

(2) The lessee shall (at his own cost and expense) keep and maintain the interior of the said flat including the doors, windows, and all fittings of any kind (but excluding any part of the structure, framework, or foundations) and electrical and plumbing installations, and drains serving the said flat in good order and condition.

**Lessors to Repair Exterior and Maintain Amenities and Grounds**

21. (1) The lessors shall keep in good order and condition and shall manage and maintain to a high standard:

(a) Those parts of any building situated on the said land (including the electrical and plumbing installations, drains, roofs, spouting, drainpipes, and other amenities serving the building) which no lessee is liable to maintain pursuant to any lease of any flat situated on the said land, and

(b) Those parts of the said land (including grounds, paths, fences, pools, and other common amenities) which no lessee is liable to maintain pursuant to any lease of any flat that is situated on the said land.

(2) In the performance of the covenants of this present clause, the lessors have the right (at all reasonable times in the daytime and after giving reasonable notice to the lessee) by their agents, servants, contractors, and workmen to enter, inspect, and (if necessary or desirable so to do) to execute and do such of the said works and things as may be required to be executed and done in or from the interior of the said flat.

(3) If any such work or thing is rendered necessary by the negligent act or wilful omission of the lessee, his servants, agents, or invitees, or of any person residing in the flat, then the cost and expense thereof shall be borne solely by the lessee.

**SCHEDULE E**

**Covenants Between Lessors**

**Appoint Agent**

22. The lessors, or a majority of them, shall from time to time appoint one of their number, or any other person or incorporated body as an agent (hereinafter called "the agent") for the purposes of receiving, disbursing, and applying moneys under clause 2 hereof, and for the purposes specified in clause 23 hereof, and for such other purposes as they shall from time to time determine.

**If Three or More Lessors — Procedure to Make Decision**

23. (1) If the lessors are more than two in number, then and in such case if any one or more (being fewer than all) of them desire or propose that any act, matter, or thing be done by the lessors which the lessors are empowered or required to do (whether under these presents, or as lessees of the said land, or lessors of the said building, or which may be considered to be necessary or desirable for the efficient and harmonious administration of the said land and/or the said building), then the following procedure shall be observed:

(a) Such proposing lessor or lessors shall give notice in writing setting out the proposed action and shall serve a copy thereof upon each of the other lessors (and upon the agent, if the agent be not a lessor);

(b) Each of the lessors so served as aforesaid shall (within seven days next after such service) give notice to the agent in writing of his approval or otherwise of the proposed action. (The notice given by the proposing lessor or lessors under paragraph (a) hereto shall constitute his approval for the purposes of this present paragraph);

(c) Any lessor who neglects or fails within the period aforesaid to give notice of his disapproval of the proposed action shall be deemed to have approved thereof;

(d) If all the lessors signify their approval as aforesaid, then the

proposed action shall forthwith thereafter be carried into effect;

(e) If fewer than all but being a majority (as hereinafter defined) of the lessors signify their approval as aforesaid, then the agent shall forthwith give notice in writing to all the lessors of the majority decision. The proposed action may thereafter be carried into effect in the name of and so as to bind all the lessors, notwithstanding that one or more (being fewer than the majority) of them shall not have signified his approval as aforesaid;

(f) If a majority of the lessors within the period aforesaid notify their disapproval of the proposed action or if the lessors are unable to arrive at a majority decision by the means aforesaid, then the proposed action shall be referred to a single arbitrator if the parties can agree upon one and otherwise to two arbitrators (one to be appointed by the approving lessors and the other by the non-approving lessors) or their umpire in accordance with the provisions of the Arbitration Act 1908 or any statutory modification or re-enactment thereof for the time being in force.

(g) If no person be appointed as the agent then:

(i) The notice to be given to the agent under subclause (b) of this clause shall in lieu thereof be given to all the other lessors and

(ii) The notice to be given by the agent under subclause (e) of this clause shall be given by or on behalf of the lessors approving of the proposed action to all the other lessors.

**If Two Lessors Disagree**

(2) If the lessors are only two in number, then any proposed action on which they fail to agree shall be referred to a single arbitrator (if the parties can agree upon one) and otherwise to two arbitrators (one to be appointed by each party) or their umpire in accordance with the provisions of the Arbitration Act.

**SCHEDULE F**

**Mutual Covenants**

**Right to Sell Lessee's Flat**

24. If the lessee has been evicted by re-entry or by Court proceedings:

(1) The lessors shall obtain a report from a registered valuer as to the fair market value of the leasehold interest in the said flat together with the lessee's undivided share in the said land in Schedule A.

(2) The lessors shall offer for sale the said leasehold interest together with the undivided share.

(3) Provided the lessors have made every reasonable endeavour to obtain a price equivalent to the said valuation, they are not bound to sell at the said valuation, and they are not liable to the lessee for selling at a price lower than the said valuation.

(4) The lessee, in consideration of the grant of this lease, hereby irrevocably appoints the lessors his attorneys for the purpose of transferring his said leasehold interest and undivided share. A majority of the lessors is entitled to act as the attorneys of the lessee.

(5) The lessee covenants to ratify and confirm the said transfer, and no-one is concerned to see to the propriety of the lessors' acts pursuant to this clause.

(6) The purchaser shall take the leasehold interest and undivided share free from liability to the lessors for any breaches of this lease which are subsisting at the time of the purchase.

(7) The lessors shall apply the net proceeds of the said sale:

(i) To pay all costs and expenses owing by the lessee to the lessors pursuant to this lease;

(ii) To pay all costs and expenses otherwise owing by the lessee to the lessors arising from or in any way relating to the eviction of the lessee, the transfer of the leasehold interest and undivided share, and the said sale;

(iii) To hold on trust for the lessee any balance then remaining.

**Sale on Terms**

(8) If the lessors effect a sale on terms pursuant to this clause 24, then those terms shall require payment in cash of not less than one-third of the total price and the securing of the balance upon first mortgage of the said leasehold interest and undivided share; such mortgage being in terms as are then current for first mortgage and trustee investments made by solicitors in the district in which the property is situated.

(9) In this clause the term "lessors" means the lessors of this lease other than the lessee.

**Notices**

25. (1) Any notice which is required to be given or served that touches anything contained or implied in this lease is deemed to have

been validly and effectually given and/or served in full compliance with the terms and conditions of this lease:

(a) If the notice has been given or served upon the party concerned personally, or

(b) If the notice has been left at (or posted to) the last known place of abode or business of the party, or

(c) Where service is to be upon the lessee, if the notice has been left at the flat.

(2) If service has been effected by post:

(a) The notice shall be sent by registered letter.

(b) Service is deemed to be effected on the day after the notice has been posted.

(3) If service has been effected by leaving the notice at the last known place of abode or business of the party, or at the flat:

(a) The notice shall be served by affixing it to the main or front exterior door of the place of abode or business, or of the flat.

(b) Service is deemed to be effected upon the day after it has been so affixed.

#### **Right to Sub-let**

26. The lessee shall have the right to let the flat to a reputable tenant PROVIDED THAT the lessee shall ensure that such tenant shall be so bound as to protect all rights under this lease and the lessee shall take all reasonable steps to enforce such rights.

#### **No Merger**

27. 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.

#### **Staged Development**

28. (1) The lessors reserve the right to erect hereafter upon that part of the said land which is described as "the relevant area for staged development" on page 1 a dwelling unit which complies in all respects with:

(a) The requirements of the local authority and of any other authority which has jurisdiction; and

(b) The terms which are set out in any agreement for the time being in force between the lessors and the lessee which relates to the erection of such dwelling unit.

(2) In order to give effect to the provisions of subclause (1) the lessee shall permit the lessors and their representatives, agents, workmen, contractors, and their servants, and other persons authorised in that behalf by the lessors to enter onto and remain upon the relevant area at all reasonable times, either with or without motor vehicles, machinery, and equipment necessary or desirable to erect such dwelling unit. The lessors shall take all reasonable steps in order to minimise any inconvenience to the lessee occasioned by such work.

29. (1) When the lessors have substantially completed the dwelling unit referred to in clause 28, then the lessee shall (at the cost in all things of the lessors and when so requested by the lessors) join in and execute as a co-lessor a lease of the said dwelling unit for a term corresponding with the unexpired period of this lease.

(2) The new lease shall contain a restrictive covenant in the same form as clause 12 in respect of that portion of the relevant area exclusive of the new dwelling unit. In other respects it shall contain the same terms and conditions as are contained in this lease (excluding however clauses 28 to 32\*).

(3) The lessee shall do all things as may be necessary or desirable in order to enable registration of the new lease (including co-operating

in the deposit of a new flats plan) and in order to obtain the consent of any mortgagee of the lessee's estate or interest in the said leasehold interest and undivided share.

30. In consideration of the granting by the lessors to the lessee of this lease, the lessee hereby irrevocably appoints the lessors (and any nominee appointed in writing by the lessors) the attorneys of the lessee:

(a) In the capacities both as lessee under this lease and as registered proprietor of any estate or interest in the undivided share.

(b) To execute the new lease referred to in clause 29.

(c) To sign and use the name of the lessee in any capacity to that new lease, and

(d) To do all other things (including the signing of any new flat plan) as may be necessary or desirable in order to register the new lease.

31. Where any person is the registered proprietor of any estate in fee simple in the said land, and that person is not the registered proprietor of an estate of leasehold in a flat or dwelling erected on the said land, then that person is deemed (for the purposes of clauses 28, 29, and 30) to be the lessors referred to in those clauses, to the exclusion of any other person.

32. Once erection of the dwelling unit referred to in clause 28 has been completed, and the lease of it which is referred to in clause 29 has been registered, then clauses 28 to 31 (inclusive) have no further force or effect.

#### **Interpretation**

33. (1) Wherever used in these presents —

(a) The expression "the lessors" shall extend to signify, include, and bind the person/s executing these presents as lessors and all the lessors for the time being hereunder (if more than one) jointly and severally and all the respective executors, administrators, successors, and permitted assigns of each lessor.

(b) The expression "the lessee" shall extend to signify, include, and bind the person/s executing these presents as lessee and all lessees for the time being hereunder (if more than one) jointly and severally, and all the respective executors, administrators, successors, and permitted assigns of each lessee.

(c) The expressions "majority of the lessors" and "majority of them" shall each mean any number of lessors for the time being who and/or whose personal representatives together own more than an undivided one-half share of or interest in the fee simple. The expression "a majority decision" shall mean a decision of the majority of the lessors as so defined.

(d) The sub-headings and marginal notes do not affect the construction of these presents.

(e) Words importing one gender include the other genders as the case may require.

(f) Words importing the singular or plural number include the plural and singular number respectively.

(2) These presents shall be considered as always speaking and whenever any matter or thing is expressed in the present tense the same shall be applied to the circumstances as they arise, so that effect may be given to these presents and every part thereof according to their spirit, true intent and meaning.

\* If words in parentheses are not appropriate, then delete them.

# REGISTERED IN DUPLICATE

## MEMORANDUM OF LEASE

Flat No. 1

On D.P. 17497

Lessor AH & MJ MALCOLM

Lessee AH & MJ MALCOLM

To the District Land Registrar

TARANAKI Land Registry

1. Please issue a composite certificate of title for two-thirds (a) the share in the lessors' estate, and (b) the leasehold estate created by the within lease. in the names of Alan Henry Malcolm ++
2. Please note on the said composite title the restrictive covenant contained in clause 12 of Schedule C of the within lease.

*L. L. Drantyl*  
Solicitor for both lessors and lessee

++and Maureen Joan Malcolm

### Check List To assist solicitors

- ☐ All blanks completed on pages 1 and 2?
- ☐ Lessors' name and description?
- ☐ Lessee's name, occupation and address?
- ☐ Legal description correct?
- ☐ Exclusive area (clause 12)?
- ☐ Staged development (clause 28)?
- ☐ Clause 17 or clause 18 deleted?
- ☐ Clause 19 or clause 20 deleted?
- ☐ Signatures witnessed by approved witnesses?
- ☐ Stamped?
- ☐ Any extra clauses inserted as required by instructions?

GOVETT QUILLIAM  
SOLICITORS  
NEW PLYMOUTH

Correct for the purposes of the Land Transfer Act

*L. L. Drantyl*  
(Solicitor for) the Lessee

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 TARANAKI

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 33(1) OF THAT ACT, AND THAT THE PROVISIONS OF SUB-SECTION (2) OF THAT SECTION DO NOT APPLY.

Composite C.T. J3/412 issued for the within lease

*2/3 Lot*  
*1 OP 15482*  
*+*  
*Flat 1 OP*  
*17497*  
*J3/412*

19.16 26 JAN 93  
397945  
PARTICULARS ENTERED IN REGISTER  
LAND REGISTRY NEW PLYMOUTH  
DIST. ASST. LAND REGISTRAR