

186473-2 L

# MEMORANDUM OF LEASE

ALGIE FREDERICK McPHERSON and ANTHONY DOUGLAS BASHFORD both of Wakefield, Builders

as tenants in common in equal shares (hereinafter with ~~the Lessors~~ and their executors, administrators and assigns called "the Lessors") being registered as proprietor of an estate in fee simple subject however to such encumbrances, liens and interests as are notified by memoranda underwritten or endorsed hereon in that piece of land situated in the District of Waimea South containing 1011 square metres

be the same a little more or less being Lot 20 on Deposited Plan 206 being part Section 84 on the plan of the said District deposited in the office of the Chief Surveyor at Nelson and being all the land comprised in Certificate of Title Volume 35 Folio 135 (Nelson Registry) Subject to fencing provision 179704.2

(hereinafter called "the said land")

IN CONSIDERATION of the rent hereinafter reserved and the covenants and conditions herein contained or implied and on the part of the Lessee to be paid, performed and observed respectively DO TH HEREBY LEASE UNTO ALGIE FREDERICK McPHERSON and ANTHONY DOUGLAS BASHFORD both of Wakefield, Builders

(hereinafter with his executors, administrators and assigns called "the Lessee") all that the flat (hereinafter called "the Flat") being that part of the building (hereinafter called "the said building") erected on the said land which said flat and said building are more particularly described in the Schedule hereto TO BE HELD by the Lessee for the term of nine hundred and ninety nine (999) years computed from the 16th day of March 19 78 AT A RENTAL of ten cents per annum payable yearly in advance (if demanded) by the Lessee to the Lessors

SUBJECT TO the following covenants, conditions and restrictions namely:—that, unless with the consent of the occupier, the Lessee shall not at any time during the said term enter upon, nor will he permit his tenants, servants, agents, workmen or visitors or any person having lawful business with him to enter upon, that ~~the~~ portions of the said land being more particularly shown lettered A ~~and~~ on Deposited Plan 9979 and it is hereby expressly agreed and declared that any breach of this clause by the Lessee shall render the Lessee liable in damages or otherwise as a trespasser in all respects as if the Lessee was some person unconnected with the said land and not the owner of an undivided share or interest therein.

## THE LESSEE DO TH HEREBY COVENANT WITH THE LESSORS:

1. THAT the Lessee will pay the rent in the manner and at the times hereinbefore provided.
2. THAT the Lessee will at all times during the said term
  - (a) keep and maintain in good and tenantable repair, order and condition the Flat and all buildings which hereafter during the said term may be erected for or by the Lessee upon the said land.
  - (b) keep and maintain in a neat and tidy order and condition the grounds, paths, fences and garden of which the Lessee has the exclusive use or possession under this lease.
  - (c) keep insured the said Flat and any building which hereafter may be erected for or by the Lessee upon the said land in the full insurable value(s) thereof and will punctually pay all premiums and sums of money necessary for keeping such insurance(s) on foot.
  - (d) upon demand in writing by the Lessors or their agents pay to the Lessors one half of the costs of repairs, maintenance and any other charges incurred in respect of the common driveway lettered C on the said Deposited Plan Number 9979 and of any drains used in common with any other person or persons.
  - (e) pay a pro rata proportion in accordance with the value of the Lessee's interest hereunder in the land or land and buildings as the case may be according to the system of rating in force for the time being in Wakefield of the general rates and land tax assessed on the said land and all buildings thereon.
3. THAT the Lessee shall use the Flat for residential purposes only and will not do or suffer to be done any act, matter or thing which shall or may be or grow to the annoyance, nuisance, grievance, damage or disturbance of the other Lessees of the said building or of any other building on the said land and shall not bring into or keep in the Flat any cat, dog, bird or other pet which may reasonably be expected to interfere with the quiet enjoyment of the other Lessees of the said building or of any other building on the said land or which may create a nuisance and the Lessee in common with all other persons from time to time lawfully entitled will have the use and enjoyment of such parts of the said land as are not for the time being occupied by buildings or subject to exclusive rights conferred by a lease.

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 insurances 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 Lease of the Flat.

5. THAT 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.

6. THAT the Lessee will not use the Flat for any illegal or immoral purposes and will refrain from causing excessive noise or disturbance in or about the Flat which may be likely to cause a nuisance or an annoyance to the Lessees or occupants of any adjoining Flats in the said buildings or in any other building on the said land. This clause shall not in any way affect the generality of clause 3 of these presents.

7. THAT it is a condition of this Lease that the Lessee shall at all material times remain owner as proprietor of an undivided one half 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 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.

8. THAT the Lessee shall not make any structural alterations to the said building without the prior written consent of such Lessors as are also Lessees of the said building first had and obtained on each occasion.

9. THAT 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 THIS HEREBY COVENANT with the Lessee as follows:—

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

11. THAT the Lessors covenant to 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 observation by the Lessees named in such other leases of all obligations as by such other leases are cast on such Lessees and for the purposes aforesaid the Lessors do irrevocably appoint the Lessee hereunder 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.

AND IT IS HEREBY COVENANTED AND AGREED by and between the Lessors and the Lessee:

12. THAT if and whenever the Lessee shall have made any breach or default in the observance or performance of any of the covenants, conditions and restrictions herein contained and shall not have remedied such breach or default in all respects within twenty-eight days of the date of receipt by the Lessee of written notice from the Lessors specifying such breach or default then it shall be lawful for the Lessors to re-enter upon the Flat or any part or parts thereof in the name of the whole and to determine this Lease and the estate and interest of the Lessee herein and the Lessee to expel and remove 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.

13. THAT in the event of the Flat 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 Flat and making good the loss or damage in respect of which the said insurance moneys shall have become payable and in the event of the moneys received under and by virtue of the said policy of insurance being insufficient to reinstate the Flat so damaged or destroyed such insufficiency shall be borne by the Lessee.

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

15. THAT 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.

16. 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 and to do and perform all or any acts or things in the opinion of the Lessors or a majority of the Lessors reasonably necessary for the full or partial performance or observance of such covenants, conditions or restrictions or any of them and if necessary or convenient for the purpose of exercising any of the powers herein conferred upon the Lessors to enter by servants, agents, contractors or workmen upon the Flat or any part thereof AND the Lessee will immediately on demand pay to the Lessors all moneys so paid by the Lessors and the costs, charges and expenses of each 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 dollars (\$10) per annum computed from the date or respective dates of such moneys being expended until payment thereof to the Lessors.

17. (a) THAT the expression "a majority of the Lessors" wherever herein used shall be deemed to mean any number of Lessors who together own more than one half interest in the freehold of the said land.

(b) THAT the expression "a majority decision" shall be deemed to mean a decision of a majority of the Lessors.

(c) THAT where in this Lease the context so requires or admits the expressions "Lessee" and "his" shall import the feminine gender and the neuter gender as well as the masculine gender and the singular number shall import the plural number.

18. THAT in the event of this Lease being determined or becoming determinable in manner herein provided then the Lessee hereby irrevocably appoints the Lessors (other than the Lessee) his Attorney to dispose of the Lessee's said interest in the fee simple of the said land and in that event to surrender his leasehold interest under this lease and for these purposes to execute all the necessary instruments.

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

20. 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 other of them touching these presents or any clause or anything herein contained or the construction hereof or as to duties or liabilities of either 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 or any re-enactment thereof.

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

21. THAT in the event of any Lessor or Lessors requiring any matter or thing to be done by the Lessors which the Lessors are empowered to do pursuant to the terms of this Lease or pursuant to their rights and powers as owners of the said land and the 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 Lessor or Lessors shall give notice thereof in writing setting out the proposed action and shall cause the same to be served upon all the other Lessors either personally or by leaving the same at or posting the same to the last known place of abode or address of the other Lessors and in the event of such service being effected by post the same shall be sent by registered letter and service shall be deemed to have been effected on the day after posting thereof.
- (b) If after the lapse of seven days from the service of the said notice as aforesaid the Lessors or a majority of the Lessors approve of the proposed action in writing the Lessors so approving shall forthwith notify all the other Lessors of the majority decision and may 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 notification shall be binding on the Lessors and any obligation undertaken by such consenting Lessors shall be enforceable against any Lessor who shall not have consented thereto.
- (c) That if the Lessors shall be unable to arrive at a majority decision on any proposed action but a number of Lessors who together own one half interest in the freehold of the said land approve of the proposed action in writing then the matter shall be referred to a single arbitrator in case the Lessors can agree on one and otherwise two arbitrators and their umpire in the case of a disagreement one of the arbitrators to be appointed by the Lessors in favour of the proposed action and the other to be appointed by the remaining Lessors and in either case in all respects in accordance 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) Whenever by reason of the act or default or neglect of the Lessee, the Lessors shall be entitled or empowered to serve a notice, do anything or take any step and the Lessee in his capacity as one of the Lessors is unwilling or unable to co-operate in such service or the doing of such thing or the taking of such step, then the other or others for the time being of the Lessors by these presents and without further authority shall be authorised to do so on behalf of and in the name of 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 above set forth.

THE SCHEDULE

All that the Flat No. 2 on Deposited Plan 9979 being part of the building shown on the said Deposited Plan.

IN WITNESS WHEREOF these presents have been executed this one thousand nine hundred and seventy eight

16th day of March

SIGNED by the said )  
ALGIE FREDERICK McPHERSON )  
and ANTHONY DOUGLAS BASHFORD )  
as Lessors in the presence of )  
and as Lessees

*Alfie McPherson*  
.....  
*A D Bashford* Jd  
.....

in the presence of:

~~SIGNED by the said )  
ALGIE FREDERICK McPHERSON )  
and ANTHONY DOUGLAS BASHFORD )  
as Lessee in the presence of )~~

*Alfie McPherson*  
.....  
*A D Bashford*  
.....



**REGISTERED IN TRIPPLICATE**

A.F. McPHERSON & A.D. BASHFORD Lessor<sup>s</sup>

A.F. McPHERSON & A.D. BASHFORD Lessee<sup>s</sup>

Correct for the purposes of the Land Transfer Act

*L. Howle*

Solicitor for the Lessee<sup>s</sup>

**MEMORANDUM OF LEASE**

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

*[Signature]*  
Land Registrar  
Assistant of the District of Nelson



LEASEHOLD CERTIFICATE VOL. \_\_\_\_\_  
FOLIO 1116 Issued for land in within lease.

*[Signature]*  
Assistant Land Registrar

SA/1116

GLASGOW, SON & TIDSWELL

SOLICITORS

NELSON.

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DISTRICT OF NELSON REGISTRY  
NELSON NO. 2

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