

MEMORANDUM OF LEASE

GARY ROGER BURGOYNE and RUKUMOANA WAINOHU both of Christchurch Builders :

(hereinafter with 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 ~~now vested in~~

~~situated in the City of Christchurch~~ situated in the City of Christchurch containing FIVE HUNDRED AND EIGHTY-FOUR SQUARE METRES (584m²) or thereabouts being Lot 13 on Deposited Plan 30838 and being the whole of the land comprised and described in Certificate of Title Register No. 12K/950 (Canterbury Registry) SUBJECT TO the Fencing provision in Transfer 929274 and to Mortgage 944380 (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 DOTH HEREBY LEASE UNTO the said Gary Roger Burgoyne and Rukumoana Wainohu.

(hereinafter with their executors, administrators and assigns called "the Lessee") all that the flat and garage (hereinafter called "the Flat") being that part of that 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 1st day of July 19 74 AT A RENTAL at the rate of ten cents per annum payable yearly in advance by the Lessee to the Lessors.

SUBJECT TO the following covenants conditions and restrictions namely:—

N.Z. Stamp Duty Ch. 5

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THE LESSEE DOTH HEREBY COVENANT WITH THE LESSORS:

1. To pay the rent in the manner and at the times hereinbefore provided.
2. (i) THE Lessee will upon demand in writing by the Lessors or their agent pay to the Lessors one half of the cost of the following repairs maintenance and other charges incurred in respect of the said Land:—
 - (a) All levies assessed on the said land and all buildings thereon, except as provided in Clause 27 hereof.
 - (b) Care and maintenance of the grounds paths fences and other amenities on the said land.
 - ~~(c) All general repairs and maintenance to the grounds paths fences and other amenities on the said land.~~
 - (d) All other expenses in respect of the said land jointly incurred by the Lessors and not relating solely to any particular Flat or to any particular building.

All the moneys payable under this clause shall be payable to a person nominated by the Lessors or a majority of the Lessors with instructions to disburse the same for the foregoing purposes. AND in default of payment thereof by the Lessee the Lessors shall be entitled to demand interest on the amount or amounts owing at the rate of Ten dollars per centum per annum from the date of payment but such demand shall be without prejudice to the rights of the Lessors under this Lease.

- (ii) THE Lessee will upon demand in writing by such Lessors as are also Lessees of the said building or their agent pay to such Lessors one half of the cost of the following repairs maintenance and other charges incurred in respect of the said building:—
 - (a) All insurance premiums assessed on the said building.
 - (b) Work carried out in connection with all electrical and plumbing equipment, drains and other amenities serving the said building as a whole.
 - (c) Work carried out in connection with the roof spouting and downpipes of the said building.
 - (d) Any exterior decoration or exterior cleaning of the walls of the said building.
 - ~~(e) All other expenses in respect of the said building jointly incurred by the Lessors and not relating solely to any particular Flat.~~
 - (f) A general reserve fund to meet contingent repairs and maintenance of the said building.
 - (g) All other expenses in respect of the said building jointly incurred by the Lessees of the said building and not relating solely to any particular Flat.

All the moneys payable under this clause shall be payable to a person nominated by such Lessors as are also Lessees of the said building or by a majority of such Lessors with instructions to disburse the same for the foregoing purposes AND in default of payment thereof by the Lessee such Lessors shall be entitled to demand interest on the amount or amounts owing at the rate of Ten dollars per centum per annum from the date of payment but such demand shall be without prejudice to the rights of the Lessors under this Lease. PROVIDED THAT the Lessee shall not be required to pay any part of the charges mentioned in this clause which shall have arisen as a result of the misuse default wrongful conduct or negligence of the Lessee of the other flat on the said land or any invitee or licensee of such lessee.

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 ~~dog, cat 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 onto or keep in the Flat any goods or any substances of a highly combustible nature or do anything (including the unauthorised use of light and power fittings) which may render an increased premium payable for the fire insurance of the said building or which may make void or voidable any such policy of insurance. The Lessee shall comply with all statutes regulations and by-laws of any local authority insofar as they affect the Lease of the Flat.

5. THE Lessee shall at his own cost keep and maintain the interior of the Flat including the doors windows electrical and plumbing apparatus and all fittings of any kind in good order and condition. ~~and likewise the Lessee shall keep and maintain the exterior roof gutters and down pipes of the Flat except as otherwise provided~~ **

6. THE Lessee will not leave or place in the passageways stairways or parking area or in the grounds surrounding the said building any receptacles or obstructions whatsoever and will not deposit any refuse or rubbish therein or thereon and will place any garbage cans in the location approved of by the Lessors.

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

8. 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 (provided always that this clause shall not apply to the first Lessee hereof).

9. THAT the Lessee will permit such Lessors as are also Lessees of the said building or their representatives at all reasonable times to enter upon the Flat to inspect the condition of the same.

10. THE Lessee shall not make any structural alterations to the 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.

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

AND THE LESSORS DO AND EACH OF THEM DOTH HEREBY COVENANT with the Lessee as follows:—

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

13. THAT such Lessors as are also Lessees of the said building shall insure the said building against fire and earthquake to its full insurable value and will take out a replacement policy and will pay all insurance premiums on any such policies as and when the same shall become due and owing unless the Lessee and every other Lessee of the said building agrees to effect and keep current a separate and adequate insurance policy for such parts of the said building each Lessee holds as tenant.

14. THAT such Lessors as are also Lessees of the said building will keep the exterior and roof of the said building in a good state of repair and will duly and punctually pay all items and matters referred to in paragraph 2 (ii) hereof and will cause the said building at all times to be managed and maintained on a high standard provided that in performance of the foregoing covenants such Lessors shall have the right to enter the Flat upon giving reasonable notice to effect such work.

15. 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:

16. 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.

17. THAT in the event of the said building or 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 said building or the Flat and making good the loss or damage in respect of which the said insurance moneys shall have become payable and in the event of the moneys received under and by virtue of the said policy of insurance being insufficient to reinstate the said building or the Flat so damaged or destroyed such insufficiency shall be borne by ~~such Lessors as are Lessees of the said building in the proportion in which they respectively own the fee simple of the above described land, provided that if the fire was caused by the negligence of one or more of such Lessors that party or parties shall bear such proportion.~~ the Lessee of the Flat so damaged or destroyed provided that ~~if the fire was caused by the negligence of the Lessee of the other flat such~~ ***

18. THE Lessors shall not be liable to the Lessee or any other person for any water damage caused either by the overflow of the water supply to the said building or to the Flat by rainwater entering the Flat.

19. 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 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.

20. 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.

21. 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 for but not obligatory upon the Lessors or a majority of the Lessors (but without prejudice to any of the other rights powers or remedies of the Lessors) at the cost and expense of the Lessee in all things to pay all or any moneys and to do and perform all or any acts or things in the opinion of the Lessors or a majority of the Lessors reasonably necessary for the full or partial performance or observance of such covenants conditions or restrictions or any of them and if necessary or convenient for the purpose of exercising any of the powers herein 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 centum per annum computed from the date or respective dates of such moneys being expended until payment thereof to the Lessors.

21. (a) THAT the Lessee shall in common with such Lessors as are also Lessees and their respective invitees and licensees have the right to use and to pass and repass on that part of the said land as is marked "Common Access" on Deposited Plan No. 34823.

(b) IN the event of the Lessee disposing by sale gift or otherwise of the Lessee's interest in the said land and the Flat the Lessee shall not be liable thereafter under any of the covenants conditions or other obligations imposed on the Lessee by this Memorandum of Lease and the burden of compliance with such covenants conditions or other obligations shall devolve upon the Lessee's successors in title and this provision shall apply to all subsequent dispositions of the Lessees interest in the said land and the Flat PROVIDED THAT nothing herein shall be construed or operate to release the Lessee or the Lessees successors in title from any liabilities incurred prior to alienation or disposition of the Lessees interest in the said land and the Flat.

22. (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 a 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.

23. 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 his lease and for these purposes to execute all the necessary instruments.

24. THE Lessee shall be bound by any decision arrived at in accordance with the provisions of clause 26 hereof and the Lessee shall give all reasonable assistance in the carrying out and implementation of such decision.

25. 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.

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

26. 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 memorandum shall be binding on the Lessors and any obligation undertaken by such consenting Lessors shall be enforceable against any Lessor who shall not have consented thereto.
- (c) That if the Lessors shall be unable to arrive at a majority decision on any proposed action but a number of Lessors who together own a one half interest in the freehold of the said land approve of the proposed action in writing then the matter shall be referred to a single arbitrator in case the Lessors can agree on one and otherwise to two arbitrators or 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 Lessor shall be entitled or empowered to serve a notice, do anything or take any step and the Lessee in their capacity as the Lessor 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.

27. That the Lessee will pay ~~his expenses proportionate to the rates in respect of the said flat~~ all the local body rates assessed or levied in respect of the Flat based on a separate Government Valuation of the Flat and the Land marked "Land with Flat 2" on Deposited Plan No. 34823.

28. THE Lessee shall have the uninterrupted right to the exclusive use of that part of the said land which surrounds the Flat and is more particularly shown on Deposited Plan No. 34823 and thereon marked "Land with Flat 2".

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.

FIRST SCHEDULE

All That the Flat premises and garage being that part of the block of two flats erected on the said land and as is delineated on Deposited Plan No. 34823 and thereon marked "Flat 2" and "Garage Flat 2".

IN WITNESS WHEREOF these presents have been executed this
one thousand nine hundred and Seventy-Four

9th day of August

SIGNED by the said GARY ROGER BURGOYNE
and UKUMOANA WAINOHU

as Lessors in the presence of:

[Signature]
[Signature]
[Signature]

} G.R. Burgoyne
R. Wainohu

SIGNED by the said GARY ROGER BURGOYNE
UKUMOANA WAINOHU

as Lessee in the presence of:

[Signature]
[Signature]
[Signature]

} G.R. Burgoyne
R. Wainohu

NO:

Correct for the purposes of the Land Transfer Act.

LEASE



Solicitor for the Lessee

G.R.BURGOYNE & R. WAINOHU Lessor

G.R.BURGOYNE & R. WAINOHU Lessee

Particulars entered in Register Book

Volume

Folio

the

at

o'clock.

*District Land Registrar
Assistant of the District of Canterbury*

I hereby certify that Part IIA of The Land Settlement
Promotion and Land Acquisition Act 1952 does not
apply to the within transaction.

Solicitor for the Lessee

Composite Certificate of Title issued
for the Lessee's interest in within Lease
and $\frac{1}{2}$ share in Fee simple Estate
see Volume 14A Folio 857

RHODES & CO.
SOLICITORS

CHRISTCHURCH, N.Z.



14A/857
18 DEC 1950
District Land Registry
Christchurch No. 1
025745/3

