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**MEMORANDUM OF LEASE**

**THE DILWORTH TRUST BOARD** a body corporate under the provisions of the Charitable Trusts Act 1957 and having its office at Auckland (hereinafter called "the Lessor") being registered as proprietor of an estate in fee simple ~~subject however to such encumbrances liens and interests as are notified by memorandum underwritten or endorsed hereon in that parcel of land containing~~

in all the land comprised in C/T 513/30 (North Auckland Registry)

**DOES HEREBY LEASE to THE NEW ZEALAND GUARDIAN TRUST COMPANY LIMITED**

(hereinafter called "the Lessee") all the said lands to be held by the Lessee as tenant for the term of **TWENTY ONE (21) YEARS** commencing from the **8th** day of **August** 199 **9** **YIELDING AND PAYING THEREFOR** unto the Lessor the annual rental of **\$ 24,600.00** (plus GST thereon) during the first seven years of that term, and thereafter the rental determined pursuant to clause 18A hereof

Such annual rental shall be payable by equal half-yearly payments ~~IN ADVANCE~~ on the **7th** days of **February** and **August** in each year during the said term.

Subject to the following covenants conditions and restrictions:

1. **THE LESSEE** will from time to time and at all times during the said term pay and discharge all rates taxes assessments and outgoings whatsoever which now are or may at any time hereafter during the said term be assessed charged or imposed upon the said demised premises or on the owner or occupier in respect thereof.

2. **THE LESSEE** will within six calendar months from the date hereof (and before commencing the erection of any building on the demised premises) fence in the demised premises with a legal fence within the meaning of the Fencing Act 1978 **PROVIDED ALWAYS** that any fence which may front **Great South Road** shall remain intact until the side and back boundaries of the land hereby demised shall have been fenced as aforesaid.

~~3. **THE LESSEE** will under the inspection and to the satisfaction of the Lessor and in accordance with the design plans elevation and specifications to be approved of by it build and construct on the land hereby demised (but as to position subject as hereinafter mentioned) one villa residence or dwelling house of the cost value of \$ at least with outbuildings in connection therewith and will complete and finish the same fit for habitation and use before the day of 199 and also will by means of vouchers or other reasonable evidence when required satisfy the Lessor that the said sum of \$ has been expended **AND FURTHER** the Lessee covenants that every building erected on the land hereby demised shall be used only as a private dwelling house coach house stable garage or other building belonging thereto and that so much of the said land as shall remain unbuilt upon shall be used only as the yard garden or grounds of such dwelling house and premises.~~

4. **THE LESSEE** will not during the said term without the consent in writing of the Lessor first had and obtained erect or place any additional erection or building on any part of the demised premises other than a stable coach house garage greenhouse summer house or other similar outbuildings suitable for the convenience of the occupier of and to be used as appurtenant to such dwelling house as aforesaid.

3. and 4. see attached sheet

X  
Handwritten signature

5. **THE DESIGN** and the site or position of any and every building whatsoever to be erected by the Lessee on the demised premises shall be first approved of in writing by the Lessor and such design and site or position shall be strictly in accordance with the town planning requirements of the Local Body having jurisdiction.

6. **THE LESSEE** will at all times during the said term keep and maintain and at the end or sooner determination thereof yield and deliver up the said land and all buildings fences hedges gates drains and sewers now or hereafter erected constructed or being upon bounding or under the same in good clean and substantial order condition and repair.

7. **THE LESSEE** will once at least in every seven years of the said term in a proper and workmanlike manner paint all the outside wood and ironwork of all buildings erected on the demised premises with two coats of good suitable paint and will also keep and maintain the interior in good condition.

8. **THE LESSOR** by its servants or agents shall be at liberty at all reasonable times during the said term to enter upon the demised premises and view the condition and state of repair thereof and serve upon the Lessee notice of any repairs required by the Lessor **AND** within two calendar months from the date of service of such notice all repairs specified therein shall be carried out by the Lessee to the satisfaction of the Lessor.

9. **THE LESSEE** will not during the said term allow any tree or shrub to grow to a height of more than 6.096 metres (20 feet) from the ground.

~~10. **THE LESSEE** will not during the said term assign underlet or in any way part with the possession of the demised premises or any part thereof without the previous consent in writing of the Lessor first had and obtained.~~

10. see attached sheet

11. **THE LESSEE** will not until the said demised premises shall have been fenced in as aforesaid impound any cattle sheep horses or other animals running thereon or take any steps for the recovery of damages or other moneys for trespass in respect thereof.

12. **THE LESSEE** will from time to time and at all times during the said term hereby granted keep all buildings which during the said term may be erected on the demised land insured in the joint names of the Lessor and the Lessee in some responsible Fire Insurance Office against loss or damage by fire in the full insurable value thereof and in default thereof it shall be lawful for the Lessor to insure and keep insured the said buildings as aforesaid and the premiums costs and charges of making and continuing the same shall be at once recoverable by the Lessor from the Lessee as and for rent in arrear.

**AND IT IS HEREBY COVENANTED AND AGREED** between the parties as follows:-

13. **THAT** in case the said buildings and premises or any part thereof shall be partially destroyed or damaged by fire or in case of partial destruction or damage arising out of fire the Lessee shall with all convenient speed re-erect or repair the same to their previous condition and state of repair out of the moneys to be received in respect of the fire insurance aforesaid with the addition of the Lessee's own moneys if necessary and in the event of the said buildings and premises or any of them being totally destroyed by fire the Lessee shall with all convenient speed rebuild the same under the inspection and to the satisfaction of the Lessor and in accordance with the design plans elevation and specifications to be approved of by it and as to position subject as hereinbefore mentioned the amount to be expended in such rebuilding to be not less than the amount received from the said insurance moneys or the sum of \$ 2,500.00 whichever shall be the greater.

14. **THAT IN NO CASE** shall the Lessor be called upon by the Lessee to pay or do anything for or in or towards the fencing or contributing to the fencing of any of the land hereby demised from any adjoining land for the time being vested in or held by the Lessor but this proviso shall not inure to the benefit of any future Lessee of the said adjoining land.

15. **THAT IT SHALL** be lawful for the Lessor or any person or persons authorised by it in that behalf at any time and at all times during the said term to enter upon the said demised premises and to make construct alter repair cleanse and maintain any sewers drains water pipes or gas pipes which the Lessor may consider necessary or expedient in connection with or for the accommodation of any adjoining property doing as little damage as possible to the premises hereby demised and restoring the surface of the said land without any unreasonable delay but without making compensation for any temporary damage to the Lessee.

### Replacement and Additional Clauses

3. The Lessee covenants that every building erected on the land hereby demised shall be used only as motel units and managerial office and residential accommodation in relation to such motel units, and garages and carports and other buildings appurtenant thereto, and that so much of the land as shall remain unbuilt upon shall be used only as the yard garden or grounds for such motel units and accommodation and premises.
4. The Lessee will not during the said term without the consent in writing of the Lessor first had and obtained erect or place any additional erection or building on any part of the demised premises other than motel units carports garages or other similar outbuildings suitable for the convenience of the occupier of and to be used as appurtenant to such motel units and managerial accommodation.
10. The Lessee will not during the said term assign underlet or in any way part with the possession of the demised premises or any part thereof without the previous consent in writing of the Lessor first had and obtained **provided** that the letting of motel units in the ordinary course of operating a motel business shall not be deemed a breach hereof.
- 18A. The Lessor shall have the right at its option to review the rent payable hereunder in respect of the second and third seven-year periods of the term hereof from the commencement of such term, in accordance with Section 22 of the Public Bodies Leases Act 1969.
- 18B. Any new lease granted in renewal of or substitution for this lease shall contain a similar provision in relation to each seven-year period of the term thereof.
- 18C. The Lessee shall pay all Goods and Services Tax payable in respect of all rent and other moneys for which the Lessee is liable hereunder.
20. The parties covenant and agree that the existence of the carparking easement created by transfer number B.919600.1 over part of the demised premises appurtenant to Lot 43B Deeds Plan 976 (C/T 513/40) (created in 1988 by the Lessor at the request and with the consent of the then lessee) shall be disregarded for all purposes in connection with fixing the rent from time to time payable in respect of the demised premises.

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*Initials:*

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16. THAT the Lessor shall not be liable for any loss or damage of any kind resulting from the flow or escape of water earth or silt from any cause whatsoever from any adjoining land whether occupied by the Lessor or not on to the demised premises.

17. THAT if the rent or other moneys hereby reserved or any part thereof or any rates or other sum to be paid by the Lessee hereunder or any part thereof shall be in arrear and unpaid for the space of fourteen days after the same shall become due the Lessor may thereupon or at any time thereafter levy the same or the unpaid portion thereof by distress.

18. THIS lease is a lease for 21 years granted pursuant to Section 7(1)(g) of the Public Bodies Leases Act 1969 and accordingly at the expiration of the said term the Lessee shall have an option either to accept a renewal lease for a further term of 21 years in accordance with the provisions of the First Schedule of the Act or to have a new lease for a further term of 21 years offered for sale by auction in accordance with the provisions of the Second Schedule of that Act and all such provisions as far as applicable shall be implied herein PROVIDED THAT in determining the fair annual rental no account shall be taken of the value of the buildings and other improvements on the said land whether erected or made during the term hereby created or at any other time AND PROVIDED FURTHER that the Lessee shall not be entitled to exercise either of the foregoing rights unless the rent hereby reserved shall have been duly paid and the covenants and conditions hereof duly performed.

18A. 18B. and 18C. see attached sheet

19. THAT if the rent hereby reserved or any part thereof or any other sums due hereunder by the Lessee shall be in arrear and unpaid for three calendar months after any one of the days hereinbefore appointed for payment thereof whether the same shall have been legally or formally demanded or not or in case of the breach non-observance or non-performance of any of the covenants conditions or agreements contained or implied herein whether affirmative or negative and on the part of the Lessee to be paid observed and performed then and in any such case it shall be lawful for the Lessor into and upon the said demised premises or any part thereof in the name of the whole to re-enter and the same to have again repossess and enjoy as if these presents had not been executed but without prejudice to any right of action or other remedy which either of the said parties hereto may have against the other of them in respect of the antecedent breach of any of the covenants conditions or agreements herein contained or implied.

20. see attached sheet

**I, THE NEW ZEALAND GUARDIAN TRUST COMPANY LIMITED**

do hereby accept this lease of the above described lands to be held by it as tenant and subject to the conditions restrictions and covenants above set forth.

DATED this 11<sup>th</sup> day of September 1992 2000

THE COMMON SEAL of the Lessor )  
THE DILWORTH TRUST BOARD )  
was hereto affixed by authority of the )  
Board in the presence of: )

*[Signature]*  
Trustee

*[Signature]*  
~~Secretary Manager~~

SIGNED by the Lessee *[Signature]* The New Zealand Guardian Trust Company Limited



in the presence of  
witness to both signatures  
*Harriet Ellen Gray*  
Full Name  
*Auckland*  
Residential Address  
*Trust Manager*  
Occupation  
*[Signature]*  
Signature

Executed under the Name and Seal of The New Zealand Guardian Trust Company Limited. Director

*[Signature]*  
Authorised Signatory  
*[Signature]*  
Authorised Signatory

**LEASE**

Correct for the purposes of the Land Transfer Act

*[Handwritten signature]*

Solicitor for Lessee

**THE DILWORTH TRUST BOARD**

Lessor

To the District Land Registrar  
Auckland

**THE NEW ZEALAND GUARDIAN TRUST  
COMPANY LIMITED**

Lessee

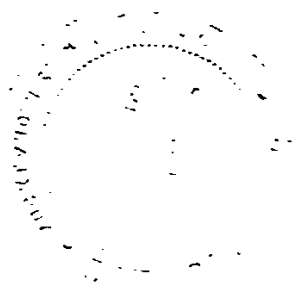
Please state in the memorial of this lease that it is in substitution of prior lease no: 568456.3 and under Section 117 of the Land Transfer Act bring down against this lease all encumbrances affecting such prior lease.

*[Handwritten signature]*

Solicitor for Lessee

The Lessor owns adjoining land in titles:

513/44 68D/324

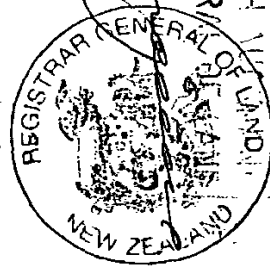


*(Renewed 14 Fencing conditions)*

*2.4.5*

PARTICULARS ENTERED IN REGISTER  
LAND REGISTRY NORTH  
for REGISTRAR-CENTER

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**JACKSON RUSSELL  
SOLICITORS  
AUCKLAND**

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