

## Licence Agreement

91 Commercial Road, Newstead Qld 4006  
17/302 South Pine Road, Brendale Qld 4500  
PO Box 5209, Brendale DC Qld 4500

Phone: 07 3854 2342 | Fax: 07 3041 6569 | Email: [admin@horrell.com.au](mailto:admin@horrell.com.au) | Web: [www.horrell.com.au](http://www.horrell.com.au)

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# Licence Agreement

## Parties

The parties to this agreement are:

- Ipswich City Council (**'Council'**) of 45 Roderick Street, Ipswich, Queensland; and
- Rajesh Sharma (**'Tenant'**) of 9 Darlington Court, Flinders View, Queensland.

## Background

- A The Tenant is the lessee from Council of Lease C in Lot 12 on SP103223 (**'Leased Premises'**) under a lease whose term commences on 1 September 2015 and is due to expire on 30 June 2021 (**'Lease'**).
- B Council and the Tenant want to enter into a licence agreement relating to an area located close to the Leased Premises.
- C Council and the Tenant also want to vary the licence of the Storage Area granted in the Lease.

## Operative provisions

### Interpretation

- 1 In this agreement:
- (a) **'Additional Licence Area'** means the area depicted as such in the plan attached to this agreement; and
  - (b) **'Applied Lease Provisions'** means the following provisions of the Lease:
    - (1) clause 2.3;
    - (2) clause 3.3;
    - (3) section 4 (but as if subclause 4.5.1 ended at the word 'consent');
    - (4) clauses 5.1, 5.2, 5.4, 5.5 and 5.6;
    - (5) section 6;
    - (6) clauses 10.1 and 10.7;
    - (7) subclause 12.8.3;
    - (8) subclauses 13.3.3 and 13.3.4;
    - (9) clause 13.9; and
  - (c) **'Commencement Date', 'Dealing', 'Departure Date', 'Law', 'Permitted Use', 'Storage Area', 'Outdoor Eating Area' and 'Tenant's Invitees'** have the meanings given to those terms in the Lease; and
  - (d) **'Licence Area'** means each of the Storage Area, the Outdoor Eating Area and the Additional Licence Area; and
  - (e) **'Licence F'** means the part of the Storage Area that is shown as 'Licence F' on the plan attached to the Lease; and
  - (f) **'Outdoor Seating Area'** means use as an area on which:

- (1) there are placed tables, chairs and umbrellas (but not as fixtures and in no greater number than Council approves from time to time and not in any configuration that Council does not approve from time to time) for use by the Tenant's Invitees who are customers of the Tenant's Business; and
  - (2) serving or selling to those customers products supplied by the Tenant to those customers in the course of carrying on the Tenant's Business; and
  - (3) placing on the tables items (such as serviettes and menus) for the use or convenience of those customers which are reasonably connected with the Tenant's Business and which Council has not, by notice to the Tenant, prohibited the Tenant from placing on the area; and
- (g) **'Tenant's Business'** means the business carried on by the Tenant at the Leased Premises or on a Licence Area in accordance with the Lease and this agreement.

#### **Licence of Additional Licence Area**

- 2 Council grants to the Tenant a licence to use the Additional Licence Area on the terms set out in this agreement and the Tenant accepts the grant.
- 3 The Tenant may use the Additional Licence Area as an Outdoor Seating Area.
- 4 The Tenant may not use the Additional Licence Area for any other purpose.
- 5 The Tenant must, whenever the Leased Premises are closed for business, remove and store away from the Additional Licence Area anything placed on the Additional Licence Area.
- 6 The Tenant must ensure that the Additional Licence Area is maintained:
  - (a) as a clean and safe environment to consume food; and
  - (b) clear of food remnants, plates, eating utensils, cups, wrapping paper and other rubbish or unwanted items.
- 7 The Tenant must also ensure that all food remnants, plates, eating utensils, cups, wrapping paper and other rubbish or unwanted items, on any other premises or area but originating from the Additional Licence Area, are removed.
- 8 The Tenant is not given exclusive possession of the Additional Licence Area and cannot exclude Council, or people authorised by Council, from the Additional Licence Area.
- 9 The Tenant may (and will if requested by Council):
  - (a) refuse entry to the Additional Licence Area to; and
  - (b) revoke any implied licence or invitation to be on the Additional Licence Area of; and
  - (c) use lawful and proper means to remove or keep away,
 any person who causes or has caused damage to the Additional Licence Area, engages or has engaged in unlawful conduct there or has done anything which would be in breach of this agreement or the Lease if done by the Tenant.
- 10 The Tenant cannot assign the licence of the Additional Licence Area granted under this agreement or make it the subject of a Dealing. If the Lease is assigned in accordance with the provisions of the Lease at any time before the licence granted under this agreement has expired, the licence is assigned at the same time as, and to the same person as, the Lease.

- 11 The licence of the Additional Licence Area granted under this agreement expires on the earliest to occur of:
- (a) the Departure Date; or
  - (b) the Tenant by notice to Council surrendering the licence; or
  - (c) Council by notice to the Tenant terminating the licence if:
    - (1) the Tenant breaches an obligation under this agreement which is capable of being remedied but has not remedied the breach within 14 days after Council giving the Tenant notice to do so; or
    - (2) the Tenant breaches an obligation under this agreement which is not capable of being remedied; or
    - (3) there has occurred any damage to, destruction of or resumption of the Additional Licence Area as a result of which the Additional Licence Area is no longer reasonably capable of continuing to be used for the purposes which this agreement would allow; or
    - (4) Council wants the Additional Licence Area for another purpose.
- 12 The Tenant must comply with the Applied Lease Provisions, and the Applied Lease Provisions apply, as if references in them to:
- (a) the 'Premises' – were to the Additional Licence Area; and
  - (b) the 'Departure Date' – were to the date on which the licence granted under this agreement expires according to clause 11 of this agreement; and
  - (c) the 'Original Layout' – were to the layout, order and condition of the Additional Licence Area as at the Commencement Date, as modified or altered from time to time; and
  - (d) a 'Service Charge' – were to an amount payable by the Tenant or Council for a service or facility (for example, electricity, water or gas) supplied to the Tenant, supplied to the Additional Licence Area or used at the Additional Licence Area; and
  - (e) the 'Permitted Use' – were to use as an Outdoor Seating Area.
- 13 Council may at any time, by notice to the Tenant, suspend the Tenant's licence to use the Additional Licence Area as an Outdoor Seating Area for a period specified in the notice.
- 14 If Council gives the Tenant such a notice, the Tenant:
- (a) must not use the Additional Licence Area as an Outdoor Seating Area during the period of the suspension; and
  - (b) must, if required by Council, remove from the Additional Licence Area for the period of the suspension any of the Tenant's Goods on the Additional Licence Area that Council requires the Tenant to remove.

#### **Variation of licence of Licence F**

- 15 Council and the Tenant agree that clause 14.3.2 of the Lease is to be read as if it also authorised the Tenant to use Licence F for the purpose of:
- (a) placing on it a shipping container shop (but not as a fixture) and using it for café purposes that are within the scope of the Permitted Use; and
  - (b) an Outdoor Seating Area.
- 16 Clause 14.3 of the Lease is to be read as if it provided that:

- (a) the Tenant must, whenever the Leased Premises are closed for business, remove and store away from Licence F anything placed on Licence F other than the shipping container shop referred to in clause 15(a) of this agreement; and
- (b) the Tenant must ensure that Licence F is maintained:
  - (1) as a clean and safe environment to consume food; and
  - (2) clear of food remnants, plates, eating utensils, cups, wrapping paper and other rubbish or unwanted items; and
- (c) the Tenant must also ensure that all food remnants, plates, eating utensils, cups, wrapping paper and other rubbish or unwanted items, on any other premises or area but originating from Licence F, are removed; and
- (d) the Tenant must not begin to use Licence F for the purpose described in clause 15 of this agreement unless and until the Tenant has obtained all planning and regulatory approvals required under any Law; and
- (e) if Council itself is the authority responsible for giving any such approval, this agreement:
  - (1) does not constitute the approval; and
  - (2) does not oblige Council to deal with any application for the approval in any way that it would not be obliged to if this agreement did not exist or if Council was not the owner of Licence F; and
- (f) Council may at any time, by notice to the Tenant, suspend the Tenant's licence to use Licence F as an Outdoor Seating Area for a period specified in the notice; and
- (g) if Council gives the Tenant such a notice, the Tenant:
  - (1) must not use Licence F as an Outdoor Seating Area during the period of the suspension; and
  - (2) must, if required by Council, remove from Licence F any of the Tenant's Goods (other than the shipping container shop referred to in clause 15(a) of this agreement) on Licence F for the period of the suspension.

## Signing

Executed as an agreement by Ipswich City Council  
by

on 26 / 10 / 15 as duly authorised Council  
delegate under section 236 of the *Local*  
*Government Act 2009*

J Flynn  
(Signature of witness)


THERESE FLYNN  
(Name of witness signing above)

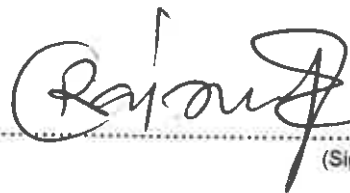
James Lindsay  
(Signature of Council delegate)

James Lindsay  
(Name and position of Council delegate)

**James Michael Lindsay**  
**Chief Executive Officer**

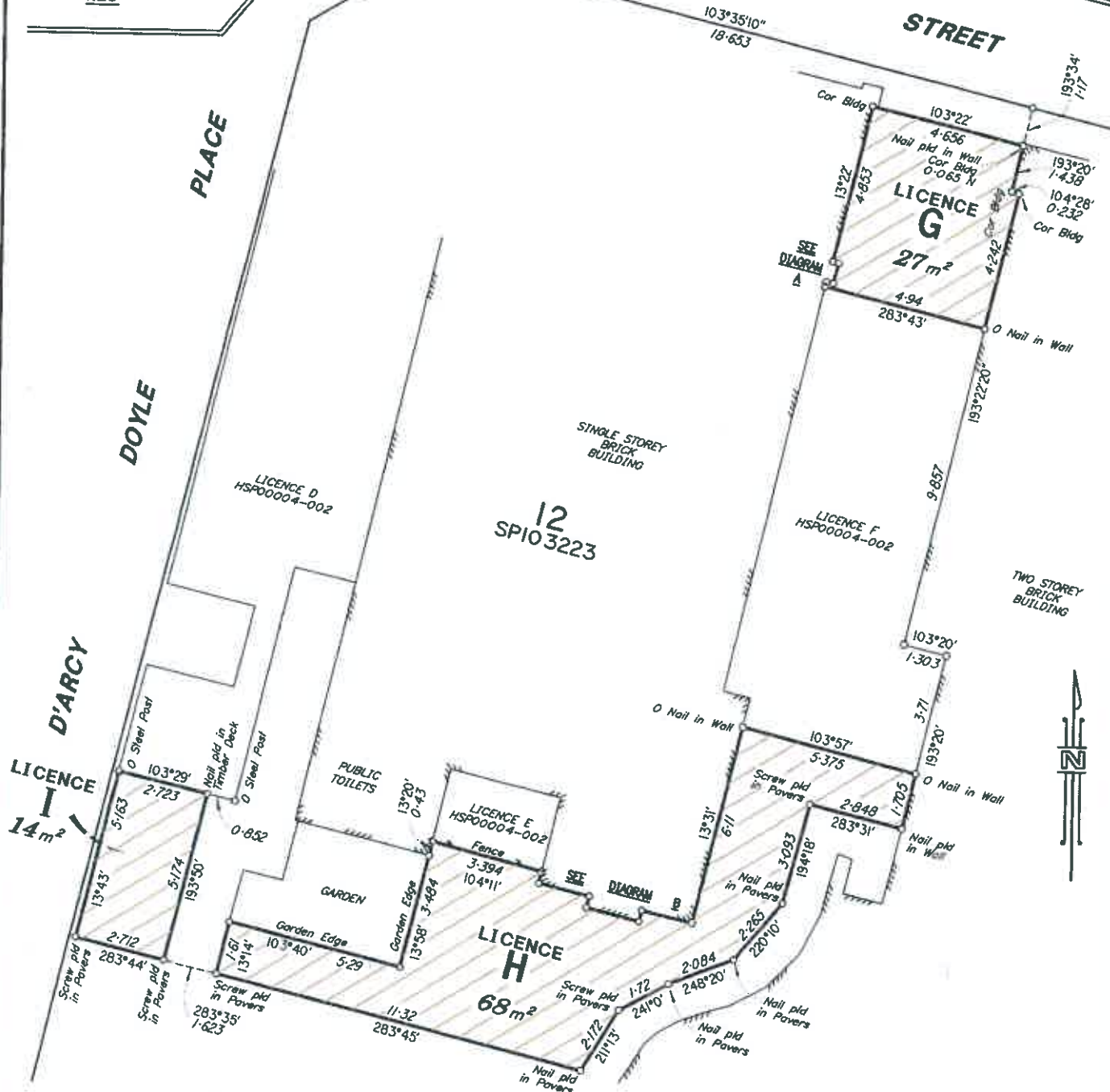
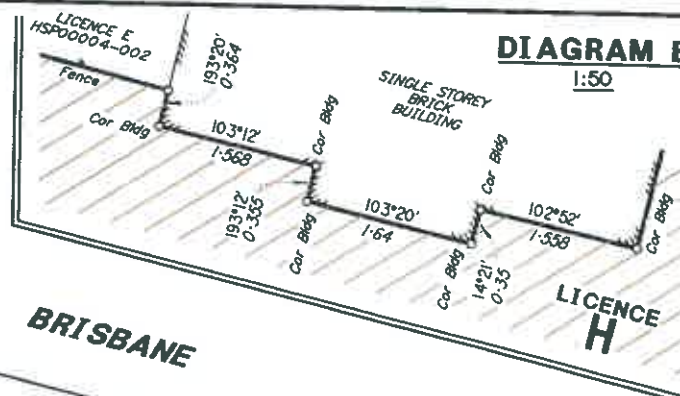
Signed by Rajesh Sharma on 26, 10, 2015

  
(Signature of witness)

  
(Signature of Rajesh Sharma)

Alicia Kerrin Rieck  
(Name of witness signing above)

## Attachment – Plan of Additional Licence Area



DRAWING NO.  
**13329 SK01-01a**