

MEETING — AGENDA —

Ngā Take

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DISTRICT LICENSING COMMITTEE

Komiti Raihana-ā-Rohe

DL8
Wednesday, 23 May 2018
Otamarakau Room
Barkes Corner, Tauranga
10.00am



Notice of Meeting No DL8 Te Karere

District Licensing Committee Komiti Raihana-a-Rohe

Wednesday, 23 May 2018
Otamarakau Room
Barkes Corner
10.00am

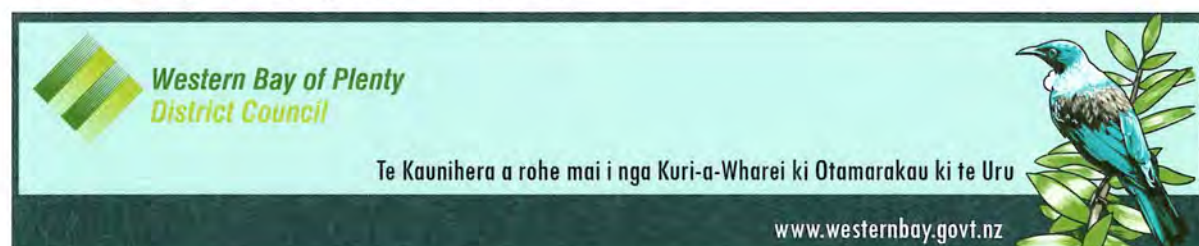
Commissioner: M Jones (Chairperson)

Councillors: D Thwaites (Deputy Chairman)
P Mackay

Community Appointees: J Davison
M Horne

Media
Staff

Miriam Taris
Chief Executive Officer
Western Bay of Plenty District Council



District Licensing Committee Delegations Mangai o Te Kaunihera

Quorum:

Commissioner and two members from the list (Section 191 – Sale and Supply of Alcohol Act 2012)

Role:

As conferred under the Sale and Supply of Alcohol Act 2012:

- To consider and determine applications for licences and manager's certificates
- To consider and determine applications for renewal of licences and manager's certificates
- To consider and determine applications for temporary authority to carry on the sale and supply of alcohol in accordance with section 136 of the Sale and Supply of Alcohol Act 2012
- To consider and determine applications for the variation, suspension, or cancellation of special licences
- To consider and determine applications for the variation of licences (other than special licences) unless the application is brought under section 280 of the Sale and Supply of Alcohol Act 2012
- With the leave of the chairperson for the licensing authority, to refer applications to the licensing authority
- To conduct inquiries and to make reports as may be required of it by the licensing authority under section 175 of the Sale and Supply of Alcohol Act 2012
- Any other functions conferred on licensing committees by or under the Sale and Supply of Alcohol Act 2012 or any other enactment

Chair's Delegation:

Where no objection to the application has been received within the timeframes as prescribed under the Act the authority to decide on the papers and issue decisions on such applications (Section 191 (2) Sale and Supply of Alcohol Act 2012).

Agenda for Meeting No. DL8

Pages

**Present
In Attendance
Apologies**

DL8.1 Conflict of Interest Declarations

Members of the appointed District Licensing Committee to declare whether or not they have any conflicts of interest in relation to the application(s) before them.

**DL8.2 Application for NEW Licence
Application No. LL 7194 for a new Temporary Authority
under Section 136, Sale and Supply of Alcohol Act 2012 -
Applicant: Unicorn Enterprises Limited - Premise located
at 23 Wilson Road Waihi Beach, trading as "The Porch"** 6-27

The Committee to consider the attached application on the papers only. Documentation is as follows:

- a) Application for Temporary Authority 3 May 2018
- b) NZ Companies Incorporation Certificate for Unicorn Enterprises Limited
- c) Agreement for Sale and Purchase of a Business
- d) Notice of Renewal of Manager's Certificate - expires 21 January 2020
- e) Licence Controller Qualification
- f) Authorisation to Hospitality Licensing Limited
- g) Letter of Application from Hospitality Licensing Limited
- h) NZ Police Report
- i) Copy of current On licence No: 022/ON/6883/2017
- j) Temporary Authority Inspector's Report

**DL8.3 Application for Renewal of OFF Licence
Application No. LL 7196 for a new Temporary Authority
under Section 136, Sale and Supply of Alcohol Act 2012 -
Applicant: Vidler Investments Limited - Premise located
at Waihi Beach Hotel 60 Wilson Road Waihi Beach,
trading as Waihi Beach Hotel** 28-55

The Committee to consider the attached application on the papers only. Documentation is as follows:

- a) Application for Temporary Authority 3 May 2018

- b) NZ Companies Incorporation Certificate for Vidler Investments Limited
- c) Letter of request for extension to temporary liquor licence
- d) Notice of Renewal of Manager's Certificate - expires 4 October 2019
- e) Agreement for Sale and Purchase of a Business
- f) NZ Police Report - email 14 May 2018
- g) Temporary Authority Inspector's Report

DL8.4

**Application for Renewal of ON Licence
Application No. LL7197 for a new Temporary Authority
under Section 136, Sale and Supply of Alcohol Act 2012 -
Applicant: Vidler Investments Limited - Premise located
at Waihi Beach Hotel 60 Wilson Road Waihi Beach,
trading as Waihi Beach Hotel**

56-82

The Committee to consider the attached application on the papers only. Documentation is as follows:

- a) Application for Temporary Authority 3 May 2018
- b) NZ Companies Incorporation Certificate for Vidler Investments Limited
- c) Notice of Renewal of Manager's Certificate - expires 4 October 2019
- d) Agreement for Sale and Purchase of a Business
- e) Letter of request for temporary licence
- f) NZ Police Report - email 14 May 2018
- g) Temporary Authority Inspector's Report

DL8.5

**Staff Update to the District Licensing Committee -
May 2018**

The Committee to consider a verbal update from the Compliance and Monitoring Manager with regard to any pending applications or matters of relevance to the Committee.

Liquor Licence – SASA 2012

Application No. LL **7194** Land Parcel ID: **P/1827/245**

Name of Applicant: **UNICORN ENTERPRISES LIMITED**

Premise: **THE PORCH**

Type of Application: New

Licence Type: **TEMPORARY AUTHORITY**

REFERRALS			
	Date Referred	Date Received	Objective #
Inspector	03/05/18	7-5-2018	A3161815
Police WB	03/05/18	04/05/18	A3160423
Copy to DLC Commissioner	03/05/18		

Licence no.

Decision no.

Any enquires contact Compliance & Monitoring Administrators



ATTACHMENT A

Western Bay of Plenty District Council

RECEIVED

02 MAY 2018

Date stamp

WESTERN BOP DISTRICT COUNCIL

Application for Temporary Authority Section 136, Sale and Supply of Alcohol Act 2012

Application for a temporary authority to operate the existing liquor licence for a premise being purchased / have purchased.

- ▶ ALL questions on the application form must be answered accurately and in full.
- ▶ ALL required documents, as indicated below, must be attached to the application:
 - Evidence of Financial Interest in the premise** - e.g. a copy of sale and purchase agreement signed by both vendor and purchaser, or a copy of an assignment of lease.
 - Copy of the Certificate of Incorporation** – where the applicant is (or involves) a company.
 - n/a **Evidence of Formal Partnership** – where the applicant is a partnership of more than two persons/entities.
 - Copy of Manager's Certificate** – of the person (or persons) intending to be the manager of the premise.
Note: if this document has not been issued at the time of filing this application, the date the manager's certificate application was filed with this Agency / /
 - Copy of current On ~~o~~ff Licence**

All applications must be filed a minimum of 20 working days prior to the takeover date

1. Reason for Application

- a. NEW application (OR) RE-APPLICATION (for a further temporary authority due to the current temporary authority expiring)

NOTE: For a re-application, please attach a written explanation why a further temporary authority is required
Letter Attached Yes No

- b. Expiry date of current Temporary Authority/...../..... Number
- c. Takeover / Possession date of premise 4th June 2018
- d. What type is the current liquor licence? On Licence On Licence (BYO only) Off Licence
- e. What is the current liquor licence number? 022/..ON/6883/2017..... Expiry Date 31 / 07 / 2018

Application Fee: \$296.70 (to be paid at the time the application is lodged)

(Office Use Only)		: LIQL	
(Date Received) 2-05-18	Application 7194	Premise No 958	
	Receipt 18/157135	Contact ID 71779	

2. Details of Applicant

a. Full name of applicant (*legal entity that will receive the proceeds from the sale of liquor*)
 Unicorn Enterprises Limited

Previous / Other names known by

Postal address P O Box 88, Bay View, NAPIER 4149

Occupation Restaurateur Date of Birth/...../.....

Contact numbers: Manjeet Singh Arora Mobile 021-175-1600

Email Cathy@LicenceMe.co.nz 0223-20-40-60 Fax (.....).....
 Georgie@LicenceMe.co.nz 021-611-844

b. Preferred means for formal correspondence Mail Email Fax

3. Further Details where Applicant is a Company/Partnership

a. Incorporation details (*please attach copy of certificate of corporation*)

Date of Incorporation 22nd February 2018

Place of Incorporation Auckland

b. Full names and dates of birth of each director and the secretary/partner (*including previous or other names known by*)

Name	Address	Date of Birth	Place of Birth	Position Held
Manjeet Singh Arora	19a Chantelle Place, Papatoetoe	08 / 12 / 1979	India	Director
Rajesh Jagpal	126 Church Street, Onehunga	26 / 09 / 1979	India	Director
...../...../.....
...../...../.....
...../...../.....

(NOTE: Continue on a separate page if necessary and attach to this application)

a. Have any persons named on this application been convicted of any offence? Yes No

If Yes, what are the details of each offence?
 (NOTE: You are entitled to protection under the Criminal Records (Clean Slate) Act. Disclose only convictions not eligible for concealment under the Clean Slate Act)

Nature of Offence	Date of Conviction	Penalty Suffered
...../...../.....
...../...../.....
...../...../.....
...../...../.....

(NOTE: Continue on a separate page if necessary and attach to this application)

4. Details of Premises

- a. Premise name: The Porch Kitchen & Bar
- b. Premise address: 23 Wilson Road, Waihi Beach

5. Details of Conveyance – e.g. boat, bus

(To be included only where the licence applies to any conveyance)

- a. Type of conveyance
- b. Address of home base (if any)
- c. Principal route travelled (if any)
- d. Trading or other name (if any)

6. Further Details

- a. What right, title, estate, or interest do you have in the premise (or conveyance):
 Lease Owner of the premise Other (describe)

- b. Details of the main person who intends to be responsible for the sale/supply of liquor on the premise (must be the person who holds or intends to apply for a manager's certificate):
 Name Manjeet Arora and Rajesh Jagpal Occupation Directors/shareholders of the licensee company
 Address 126 Church Street, Onehunga

Does this person hold a current manager's certificate? Yes No
(If Yes, attach a copy of the manager's certificate)

What is this person's previous experience in working in licensed premises? Rajesh Jagpal is a licensee in two licensed restaurants in Auckland

c. Other Manager's details:

Name	Address	Date of Birth	Certificate No.	Expiry Date
<u>Mikayla Jayne Morgan</u>	<u>...../...../.....</u>	<u>022/CERT/6726/2017</u>	<u>21 / 01 / 2020</u>
...../...../...../...../.....
...../...../...../...../.....
...../...../...../...../.....

7. Signature of Applicant

Signature:  Date: 1st May 2020
(NOTE: this application must be signed by the applicant personally)

- If applying as a company, state your relationship to the company, e.g. director, secretary

Relationship Authorised Agent Name Hospitality Licensing Ltd, Cathy Scott

Pursuant to the Privacy Act 1993, the following is brought to your attention: The personal information contained in this form is being collected to assist Council and other agencies in processing your application and may be made available to the public as part of the process. You do have the right of access to, and correction of, this information subject to the provisions of the Privacy Act 1993



Company Extract
UNICORN ENTERPRISES LIMITED
6731736
NZBN: 9429046617880

Entity Type:	NZ Limited Company
Incorporated:	22 Feb 2018
Current Status:	Registered
Constitution Filed:	No
Annual Return Filing Month:	June

Ultimate holding company: No

Company Addresses

Registered Office

Manjeet Arora and Raj Jagpal, 19a Chantelle Place, Papatoetoe, Auckland, 2025, NZ

Address for Service

Manjeet Arora and Raj Jagpal, 19a Chantelle Place, Papatoetoe, Auckland, 2025, NZ

Directors

ARORA, Manjeet Singh
 19a Chantelle Place, Papatoetoe, Auckland, 2025, NZ

JAGPAL, Rajesh
 26 Church Street, Onehunga, Auckland, 1061, NZ

Shareholdings

Total Number of Shares: 100

Extensive Shareholdings: No

50 ARORA, Manjeet Singh
 19a Chantelle Place, Papatoetoe, Auckland, 2025, NZ

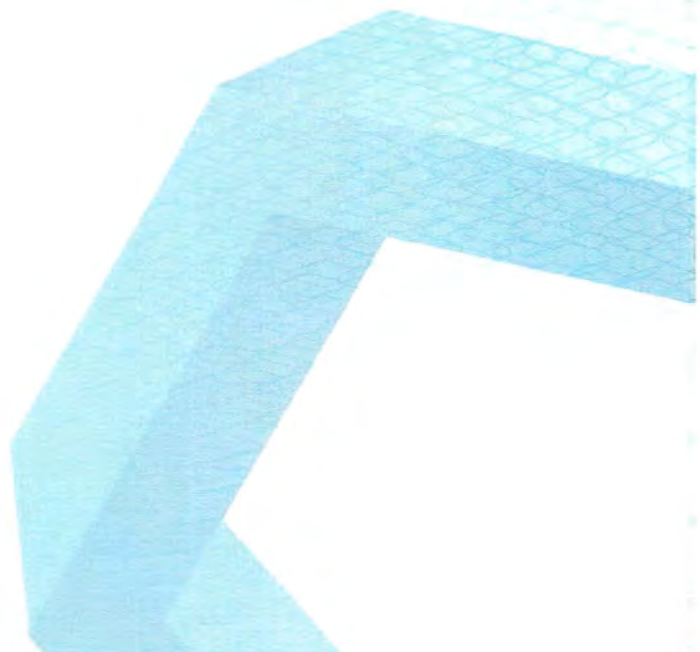
50 JAGPAL, Rajesh
 26 Church Street, Onehunga, Auckland, 1061, NZ



ATTACHMENT b

Company Extract
UNICORN ENTERPRISES LIMITED
6731736
NZBN: 9429046617880

For further details relating to this company, check <http://app.companiesoffice.govt.nz/co/6731736>
Extract generated 18 April 2018 06:53 AM NZST



ATTACHMENT b

Certificate of Incorporation
UNICORN ENTERPRISES LIMITED
6731736
NZBN: 9429046617880

This is to certify that UNICORN ENTERPRISES LIMITED was incorporated under the Companies Act 1993 on the 22nd day of February 2018.

A handwritten signature in black ink, appearing to read 'D. Smith'.

Registrar of Companies
18th day of April 2018



ADLS | REINZ

Fourth Edition 2008 (5)

AGREEMENT FOR SALE AND PURCHASE OF A BUSINESS

This form is approved by the Real Estate Institute of New Zealand Incorporated and by Auckland District Law Society Incorporated

DATE: 20/2/18

VENDOR: Edible Solutions Limited

(GST No: 097-493-820)

TMG

COVENANTOR(S): Daniel Peter Glubb and Tracey Margaret Glubb

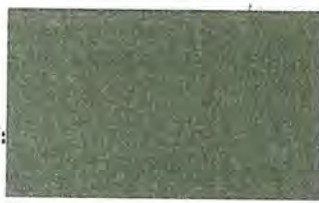
PURCHASER: Manjeet Arora

(GST No:

) and/or nominee


GUARANTOR(S): Manjeet Arora

BUSINESS
Description of business (subclause 1.1(4)): Licensed Cafe
Name of business: The Porch
Address of business premises: 23 Wilson Rd, Waihi Beach, Western Bay Of Plenty District

PURCHASE PRICE
Tangible Assets:
Intangible Assets:
Stock In Trade:
TOTAL PURCHASE PRICE:  (plus GST, if any (clauses 11.0 and 12.0))
Deposit:
The Vendor is registered under the GST Act in respect of the transaction evidenced by this agreement and/or will be so registered at settlement. Yes/No
WARNING: The parties should seek legal and tax advice before entering into this agreement, in particular in respect of GST if there is any form of residential accommodation included in the supply. The incidence of tax and GST may be affected by the way in which this agreement is worded and by the tax status and intentions of the parties to it.

Settlement date (subclause 3.1): First Monday following 20 working days from unconditional date	Possession time (subclause 3.1): 8:00am
GST date (clauses 11.0 and 12.0):	Interest rate for late settlement: 14 % p.a. (subclauses 3.7,3.8,3.9,9.4(3),11.4(3))

Maximum percentage stock value adjustment (subclauses 5.3 and 6.2(1)):	10 %
Turnover warranty (subclause 6.5): \$ from: to:	(excluding GST) covering the period

 TMG

Vendor's assistance period (subclause 6.4(5)):	15 working days after settlement
Vendor's restraint of trade (subclauses 7.1 and 7.2) Restraint period: 2 years (and see Clause 27.0) within (restraint area): 10 kilometres of the business premises	after settlement

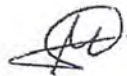
LEASE DETAILS
Landlord: Lease to be supplied as per Clause 8.3
Commencement date:
Term:
Present rental:
Right(s) of renewal (if any):
Rent review dates:
Date for landlord's consent (subclause 8.4): Within 5 working days from satisfaction of the due diligence condition.

FINANCE CONDITION
[REDACTED]

DUE DILIGENCE CONDITION	Yes/No
Due diligence date (subclauses 8.2 and 8.6): Within 10 working days from the date of this agreement	

SALE BY:	ABC Business Sales Limited	Manager: Linda Harley	
	Central Shopping Centre, Level 1	Salesperson:	
	65 Chapel Street	Murray Kidd	murrayk@abcbusiness.co.nz
	TAURANGA 3110	Ellen Place	ellenp@abcbusiness.co.nz
	Ph: 09 630 1600	abc.brokers@xtra.co.nz	
		<i>Licensed Real Estate Agent under the Real Estate Agents Act 2008</i>	

It is agreed that the vendor sells and the purchaser purchases the business and takes an assignment of the lease of the premises (if any) on the terms set out above and in the general terms of sale and in any further terms of sale and the schedules to this agreement.


 TMH

FURTHER TERMS OF SALE

See attached.

*Subject to due diligence,
Finance, lease*



 TMH

SCHEDULE 1

Subclause 1.1(3) – list of tangible and intangible assets

To be supplied within 5 working days from the date of this agreement, and to be approved by the Purchaser during due diligence.

WARNINGS (These warnings do not form part of this agreement.)

1. This is a binding contract. If any party has any doubts, professional advice should be sought before signing.
2. It is recommended that the covenantor(s) and the guarantor(s) (if any) carefully consider their obligations under this agreement and whether they should be independently advised.
3. Consider also whether this agreement should include work in progress. If so, you may need to add further terms of sale.

Signature of Vendor(s)

[Handwritten signature]

Director / ~~Trustee~~ / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Signature of Purchaser(s)

[Handwritten signature]

Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Director / ~~Trustee~~ / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Signature of Covenantor(s)

[Handwritten signature]

Director / ~~Trustee~~ / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Signature of Guarantor(s)

[Handwritten signature]

Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Director / ~~Trustee~~ / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

* If this agreement is signed under:

- (i) a Power of Attorney – please attach a Certificate of non-revocation (available from ADLS: 4098WFP or REINZ); or
- (ii) an Enduring Power of Attorney – please attach a Certificate of non-revocation and non-suspension of the enduring power of attorney (available from ADLS: 4997WFP or REINZ).

Also insert the following wording for the Attorney's Signature above:

Signed by [full name of the donor] by his or her Attorney [attorney's signature].

Certificate No. 022/CERT/6726/2017


Notice of Renewal of Manager's Certificate
Section 226, Sale and Supply of Alcohol Act 2012

MIKAYLA JAYNE MORGAN

Your Manager's Certificate is renewed.

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of Manager's Certificates, this certificate shall expire on **21 January 2020** unless again renewed.

DATED at Tauranga on the 21st day of February 2017.



Secretary

Western Bay of Plenty District Licensing Committee



Licence Controller Qualification

This is to certify that on
28 March 2014

Rajesh Jagpal

was issued the Licence Controller Qualification recognised by ServiceIQ,
incorporating the following NZQA unit standards:

NZQA ID

- 4646 Demonstrate knowledge of the Sale and Supply of Alcohol Act 2012
and its implications for licensed premises
- 16705 Demonstrate knowledge of host responsibility requirements
as a duty manager of licensed premises



Dean Minchington

Chief Executive Officer
ServiceIQ (Service Skills Institute)

Service IQ
SMARTER PEOPLE FOR
SMARTER BUSINESSES

Licence Controller Qualification

This is to certify that on
20 March 2018

Manjeet Singh Arora

was issued the Licence Controller Qualification recognised by ServiceIQ,
incorporating the following NZQA unit standards

NZQA ID

- 4646 Demonstrate knowledge of the Sale and Supply of Alcohol Act 2012
and its implications for licensed premises
- 16705 Demonstrate knowledge of host responsibility requirements
as a duty manager of licensed premises



Dean Minchington

Chief Executive Officer
ServiceIQ (Service Skills Institute)

Service IQ
SMARTER PEOPLE FOR
SMARTER BUSINESSES

The Manager
Hospitality Licensing Limited
P O Box 88
Bay View
NAPIER 4149

I authorise Hospitality Licensing Limited to act as my agent
in all matters relevant to liquor licensing.

I understand that the police are required to report on the
application and consent to the release of information.

Signed:

Mansjeet Singh

Name:

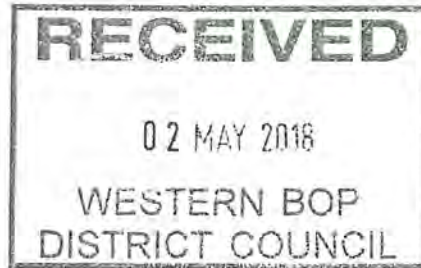
MANJEEET SINGH ARORA

On behalf of:
(legal entity)

UNICORN ENTERPRISES LTD

Date:

15/03/2018



PO Box 88
Bay View Napier 4149
p: (09) 372 6107
p: (06) 836 7297
www.LicenceMe.co.nz

**hospitality
licensing
limited**

1st May 2018

The Secretary
District Licensing Committee
Western Bay of Plenty
Private Bag 12803
T'AURANGA 3143

Dear Sir

**APPLICATION FOR A TEMPORARY AUTHORITY:
THE PORCH**

Enclosed please find an application for a temporary authority to trade in the name of Unicorn Enterprises Limited. The premise to which this application relates is located at 23 Wilson Road, Waihi Beach and is known as The Porch Kitchen & Bar. The trading name will not change. The base licence is numbered 022/ON/6883/2017. This licence is due to expire on 31st July 2018.

The following information is offered in support of that application.

The applicant is a private company incorporated on 22nd February 2018. The company has two directors and shareholders. Their personal details are as follows:

Name:	Manjeet Singh Arora
Address:	19a Chantelle Place Papatoetoe
Date of Birth:	8 th December 1979
Place of Birth:	India
Status:	Permanent Resident
Designation:	Director & Shareholder
Values of Shares Held:	50%

Name:	Rajesh Jagpal
Address:	126 Church Street Onehunga
Date of Birth:	26 th September 1979
Place of Birth:	India
Status:	NZ Citizen
Designation:	Director & Shareholder
Values of Shares Held:	50%

Neither director has criminal convictions. Mr Jagpal jointly owns licensed restaurants trading as Indian Accent in Botany and Mt Wellington, Auckland. The Mt Wellington licence is numbered 007/ON/9092/2016. Mr Arora has also tasted business ownership at Pizza Home in Papatoetoe. Both have obtained their Licence Controller and will apply for manger certificates.

There is no reason to believe that this is not a suitable entity to hold a liquor licence.

The applicant has entered a sale and purchase agreement for the business and is scheduled to be taking possession of the premises on 4th June 2018. Any assistance the reporting officers or Committee can offer in the speedy processing of this application would be greatly appreciated. It is requested that this authority has a commencement date of the 4th June 2018 but be issued by the 30th May 2018 to be ready for settlement.

The Vendor is contractually obliged to assist the applicant for a handover period. Other certificated managers will be employed in the business. The licensee will make the appropriate notifications once in possession of the business.

For the convenience of the Committee, the following documents are attached to this application:-

- Authorisation to Act;
- Police Declaration;
- A copy of the current licence for the premises;
- Relevant pages sale and purchase agreement for the business;
- A copy of the Certificate of Incorporation and an excerpt from the Companies Office;
- Details of certificated manager.

Applications for planning and building code certificates of compliance have been lodged simultaneously with this application.

Should you have any further questions please do not hesitate to contact me on ☎ 09-391-2468 or 022-320-4060.

Yours faithfully,
Hospitality Licensing Ltd



CATHY SCOTT
Authorised Agent for Unicorn Enterprises Limited

Debbie Coulter

From: ROBERTSON, Brendan <Brendan.Robertson@police.govt.nz>
Sent: Friday, 4 May 2018 4:00 AM
To: Debbie Coulter; PHILLIPS, Greer
Subject: FW: LL7194 - Temporary Authority for The Porch, Waihi Beach
Attachments: A3158926.pdf

Hi

Police have no objections to this application.

Regards

Sergeant Brendan Robertson | **BRI392** | **Relieving O/C Station Waihi**
☎ **Station 07 863 3710 | Ext 78710 | Cell 021 191 1825** | Brendan.Robertson@police.govt.nz

From: Debbie Coulter [mailto:Debbie.Coulter@westernbay.govt.nz]
Sent: Thursday, 3 May 2018 10:15 a.m.
To: ROBERTSON, Brendan <Brendan.Robertson@police.govt.nz>
Subject: LL7194 - Temporary Authority for The Porch, Waihi Beach

Hi Brendon

For you report please. Takeover date is 4th of June.

Cheers

Debbie Coulter

Compliance Administration Officer
Kaiwhakarite

P 07 571 8008 • **DD** 07 579 6790
Barkes Corner, Greerton, Tauranga
Private Bag 12803, Tauranga Mail Centre, Tauranga 3143
E debbie.coulter@westernbay.govt.nz
www.westernbay.govt.nz



Te Kaunihera a rohe mai i nga Kuri-a-Whare i Otamarakau ki te Uru



The information contained in this message (and any accompanying documents) is CONFIDENTIAL and may also be LEGALLY PRIVILEGED, intended only for the recipient(s) named above.

PO Box 88
Bay View Napier 4149
p: (09) 372 6107
p: (06) 836 7297
www.LicenceMe.co.nz

hospitality
licensing
limited

DISCLOSURE OF POLICE INFORMATION

The Police are required to report on this application. That report may include the release of any previous convictions you may have. You will receive a copy of that report. Do you consent to the release of this information?

Yes

No



Company Name:

Director:	Name:	Manjeet Singh Arora
	Address:	19a Chantelle Place Papatoetoe
	Date of Birth:	8 th December 1979
	Place of Birth:	India
	Status:	Permanent Resident
	Driver licence:	DO 369 289

	Name:	Rajesh Jagpal
	Address:	19a Chantelle Place Papatoetoe
	Date of Birth:	26 th September 1979
	Place of Birth:	India
	Status:	NZ Citizen
	Driver licence:	DJ 525 059

Dated this 1st day of May 2018

Signed:

Cathy Scott, Hospitality Licensing Ltd
Authorised Agent for the applicant company



Licence No: 022/ON/6883/2017

On Licence

(For Premises that are not a conveyance)

Sections 14 to 16, and 64, Sale and Supply of Alcohol Act 2012

Pursuant to the Sale and Supply of Alcohol Act 2012 (the Act), EDIBLE SOLUTIONS LIMITED (the licensee) is authorised to sell and supply alcohol on the premises situated at 23 WILSON ROAD, WAIHI, BEACH and known as "THE PORCH", to any person for consumption on the premises and to let people consume alcohol there.

The authority conferred by this licence must be exercised through a manager or managers appointed by the licensee in accordance with Subpart 7 of Part 2 of the Act.

Conditions

- (a) No alcohol is to be sold on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day to any person who is not present on the premises to dine.
- (b) Alcohol may be sold only on the following days and during the following hours:
On such days and during such hours as the premises are being operated as a Class 1 Restaurant but not other than on the following days and hours:

Monday to Sunday 9.00am to 1.00am the following day

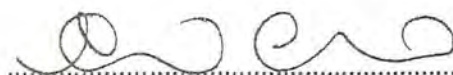
- (c) Drinking water is to be freely available to customers from the bar.
- (d) The following steps must be taken to promote the responsible consumption of alcohol:
- (e) The licensee must ensure that all staff comply with the host responsibility plan submitted with the application for an on-licence detailing the steps to be taken by the licensee to ensure a safe drinking environment.
- (f) The following steps must be taken to ensure that the provisions of the Act relating to the sale of alcohol to prohibited persons are observed:
- i. Ensure that no intoxicated persons are allowed to enter or to remain on the premises.
 - ii. Ensure that appropriate signs are prominently displayed detailing the statutory restrictions on the supply of alcohol to minors and intoxicated persons adjacent to every point of sale.
- (g) The whole of the premises is an undesignated area.

Duration

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of licences, the licence expires on:

The day 31st of July 2018

DATED at Tauranga on the 31st day of July 2017



Secretary, Western Bay of Plenty District Licensing Committee





Temporary Authority Inspector's Report

To: District Licensing Committee
From: Dougal Elvin – Liquor Licensing Inspector
Date: 4 May 2018
Applicant's Name: Unicorn Enterprises Limited
Premises Address: The Porch Kitchen & Bar – 23 Wilson Road, Waihi Beach.
Application Number: LL7194
Underlying Licence Expires: 31 July 2018
Number of Applications & Reason 1st application for a temporary authority as the applicant is purchasing the business.

	Yes	No
Applicant Suitable	✓	
Acceptable Hours	✓	
Sale and Purchase Agreement	✓	
Duty Manager	✓	
Certificate of Incorporation	✓	

Comments:

Background:

Unicorn Enterprises Limited was incorporated on 22 February 2018.

The company has two directors: Manjeet Singh Arora (8-Dec-1979) and Rajesh Jagpal (26-Sep-1979).

Management performance:

Rajesh Jagpal is currently a licensee of two licensed restaurants in Botany and Mount Wellington in Auckland, both of which are called Indian Accent. Manjeet Singh Arora is currently a director of a Pizza business in Papatoetoe in Auckland called Pizza Home.

Duty Managers:

Both directors have their Licence Controller Qualifications (LCQs) and will be applying for their manager's certificates in the near future. Mikayla Jayne Morgan is the current duty manager who will be staying on at the premises when the new business takes over.



Premises:

The Porch Kitchen & Bar is situated at 23 Wilson Road, Waihi Beach. It is a Class 1 restaurant, which is essentially a restaurant with a bar. It is primarily used by the locals of Waihi Beach and capitalises on the seasonal tourists within the Summer season.

Even though there have been no major breaches of the Act, the management of the Porch restaurant by the current owners has been noticeable. The current owners have experienced partnership difficulties and as such, close attention to the management of duty managers and the restaurant has fallen by the wayside.

Consequently the sale of the restaurant could not come at a better time and I am looking forward to a focused approach to the running of the restaurant by the new owners.

No issues have come to light from the Police.

Proposed takeover date: 4 June 2018, however the applicant would appreciate the temporary authority to be issued by 30 May 2018 to be ready for the settlement date.

Conclusion:

I do not oppose this application for a temporary authority.

Conditions:

As per the underlying conditions on the substantive off-licence 022/ON/6883/2017

	No Opposition	Opposition
Police Report	✓	
Inspector's Report	✓	

.....
Dougal Elvin
Alcohol Licensing Inspector

Liquor Licence – SASA 2012Application No. LL **7196** Land Parcel ID: **P/1827/6**Name of Applicant: **VIDLER INVESTMENTS LIMITED**Premise: **WAIHI BEACH HOTEL**Type of Application: Renewal *OFF*Licence Type: **TEMPORARY AUTHORITY**

REFERRALS			
	Date Referred	Date Received	Objective #
Inspector	04/05/18	<i>10.5.2018</i>	<i>A3166077</i>
Police WB	04/05/18	<i>14/05/18</i>	<i>A3168430</i>
Copy to DLC Commissioner			

Licence no.

Decision no.

Any enquires contact Compliance & Monitoring Administrators



Application for Temporary Authority Section 136, Sale and Supply of Alcohol Act 2012



Application for a temporary authority to operate the existing liquor licence for a premise being purchased / have purchased.

- ▶ ALL questions on the application form must be answered accurately and in full.
- ▶ ALL required documents, as indicated below, must be attached to the application:
 - Evidence of Financial Interest in the premise** - e.g. a copy of sale and purchase agreement signed by both vendor and purchaser, or a copy of an assignment of lease.
 - Copy of the Certificate of Incorporation** – where the applicant is (or involves) a company.
 - Evidence of Formal Partnership** – where the applicant is a partnership of more than two persons/entities.
 - Copy of Manager's Certificate** – of the person (or persons) intending to be the manager of the premise.
Note: if this document has not been issued at the time of filing this application, the date the manager's certificate application was filed with this Agency / /
 - Copy of current On or Off Licence**

All applications must be filed a minimum of 20 working days prior to the takeover date

1. Reason for Application

- a. NEW application (OR) RE-APPLICATION (for a further temporary authority due to the current temporary authority expiring)

NOTE: For a re-application, please attach a written explanation why a further temporary authority is required
Letter Attached Yes No

- b. Expiry date of current Temporary Authority 31 / 5 / 2018 Number 022/RENOFF/6732/2017
- c. Takeover / Possession date of premise 16/03/2018
- d. What type is the current liquor licence? On Licence On Licence (BYO only) Off Licence
- e. What is the current liquor licence number? 022/RENOFF/6732/2017 Expiry Date 12 / 2 / 2020

Application Fee: \$296.70 (to be paid at the time the application is lodged)

(Office Use Only)		: LIQL	
	Application <u>7196</u>	Premise No	
(Date Received) <u>3/5/18</u>	Receipt <u>2018/158597</u>	Contact ID. <u>60910</u>	

2. Details of Applicant

a. Full name of applicant (legal entity that will receive the proceeds from the sale of liquor)

Vidler Investments LTD

Previous / Other names known by

Postal address 60 Wilson rd Waikī Beach

Occupation Date of Birth

Contact numbers: Business (07) 8635482 Private Mobile

Email amy@waikībeachhotel.co.nz Fax

b. Preferred means for formal correspondence Mail Email Fax

3. Further Details where Applicant is a Company/Partnership

a. Incorporation details (please attach copy of certificate of corporation)

Date of Incorporation 07 FEB 2018

Place of Incorporation TAURANGA

b. Full names and dates of birth of each director and the secretary/partner (including previous or other names known by)

Name	Address	Date of Birth	Place of Birth	Position Held
Shaun Vidler	174 Seaforth rd Waikī Beach	12/10/81	Australia	Director
Amy Vidler	174 Seaforth rd Waikī Beach	24/2/86	Waikī	Director

(NOTE: Continue on a separate page if necessary and attach to this application)

a. Have any persons named on this application been convicted of any offence? Yes No

If Yes, what are the details of each offence?

(NOTE: You are entitled to protection under the Criminal Records (Clean Slate) Act. Disclose only convictions not eligible for concealment under the Clean Slate Act)

Nature of Offence	Date of Conviction	Penalty Suffered

(NOTE: Continue on a separate page if necessary and attach to this application)



4. Details of Premises

- a. Premise name: Waikī Beach Hotel
- b. Premise address: 60 Wilson rd Waikī Beach

5. Details of Conveyance – e.g. boat, bus

(To be included only where the licence applies to any conveyance)

- a. Type of conveyance
- b. Address of home base (if any)
- c. Principal route travelled (if any)
- d. Trading or other name (if any)

6. Further Details

- a. What right, title, estate, or interest do you have in the premise (or conveyance):

Lease Owner of the premise Other (describe)

- b. Details of the main person who intends to be responsible for the sale/supply of liquor on the premise (must be the person who holds or intends to apply for a manager's certificate):

Name ~~Matthew~~ JOSHUA GILLESPIE Occupation Manager

Address HALAN AVENUE, WAIKĪ BEACH

Does this person hold a current manager's certificate? Yes No
(If Yes, attach a copy of the manager's certificate)

What is this person's previous experience in working in licensed premises?

- c. Other Manager's details:

Name	Address	Date of Birth	Certificate No.	Expiry Date
<u>Raunui Waipihana</u>	<u>92 Beach rd Waikī Beach</u>	<u>26 06 92</u>	<u>022/cert/6886/2017</u>	<u>19 07 18</u>
<u>Josh Gillespie</u>	<u>17 Hanlon ave Waikī Beach</u>	<u>2 7 84</u>	<u>022/cert/117/2016</u>	<u>4 10 2019</u>
<u>Mercedes Menarvino</u>			<u>022/cert/6747/2017</u>	<u>8 3 2020</u>
<u>Maire Hawkes</u>	<u>48 Symonds st Waikī</u>	<u>3 1 69</u>	<u>022/cert/65/2017</u>	<u>20 10 2020</u>

7. Signature of Applicant

Signature: [Signature] Date: 26/04
(NOTE: this application must be signed by the applicant personally)

- If applying as a company, state your relationship to the company, e.g. director, secretary

Relationship DIRECTOR Name AMY VIBLEN

Pursuant to the Privacy Act 1993, the following is brought to your attention: The personal information contained in this form is being collected to assist Council and other agencies in processing your application and may be made available to the public as part of the process. You do have the right of access to, and correction of, this information subject to the provisions of the Privacy Act 1993

Company Extract

VIDLER INVESTMENTS LIMITED

6693853

NZBN: 9429046584830

Entity Type:	NZ Limited Company
Incorporated:	07 Feb 2018
Current Status:	Registered
Constitution Filed:	Yes
Annual Return Filing Month:	November

Ultimate holding company: No

Company Addresses

Registered Office

SUTCLIFFE GRAHAM & CO LTD, 1181 Cameron Road, Gate Pa, Tauranga, 3112, NZ

Address for Service

SUTCLIFFE GRAHAM & CO LTD, 1181 Cameron Road, Gate Pa, Tauranga, 3112, NZ

Directors

VIDLER, Amy Alicia Barbara
174 Seaforth Road, Waihi Beach, Waihi Beach, 3611, NZ

VIDLER, Shaun Thomas
174 Seaforth Road, Waihi Beach, Waihi Beach, 3611, NZ

Shareholdings

Total Number of Shares: 100

Extensive Shareholdings: No

50 VIDLER, Amy Alicia Barbara
174 Seaforth Road, Waihi Beach, Waihi Beach, 3611, NZ

50 VIDLER, Shaun Thomas
174 Seaforth Road, Waihi Beach, Waihi Beach, 3611, NZ

LL7196
ATTACHMENT c

Waihi Beach Hotel

60 Wilson Road Waihi Beach
(07) 863 5402

Western Bay of Plenty Council
1484 Cameron Road
Tauranga 3143

2nd of May 2018

To whom it may concern,

We wish to apply for an extension to our temporary liquor licence. Our license is due to expire on the 31/05/2018. Our original licence started on the 1/03/2018 and we took over the premises on 16/03/2018. We are requesting an additional 3 months temporary liquor licence as due to takeover we have not been able to complete our application for our full license in time.

Kind regards,

Amy Vidler
Director
Waihi Beach Hotel
0226174400

Certificate No. 022/CERT/117/2016

Notice of Renewal of Manager's Certificate

Section 226, Sale and Supply of Alcohol Act 2012

JOSHUA KELVIN LYNDON GILLESPIE

Your Manager's Certificate is renewed.

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of Manager's Certificates, this certificate shall expire on **4 October 2019** unless again renewed.

DATED at Tauranga on the 18th day of **October** 2016.



Secretary

Western Bay of Plenty District Licensing Committee



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AGREEMENT FOR SALE AND PURCHASE OF A BUSINESS

This form is approved by the Real Estate Institute of New Zealand Incorporated and by Auckland District Law Society Incorporated

DATE:


VENDOR: Waihi Beach Resort Limited and Waihi Beach Hotel Bistro Limited (GST No:)

COVENANTOR(S):

PURCHASER: Amy Alicia Barbara Vidler (GST No:) and/or nominee

GUARANTOR(S):

BUSINESS Description of business (subclause 1.1(4)): Restaurant, Bar, Wholesaler and Accommodation Name of business: Waihi Beach Hotel Address of business premises: 60 Wilson Road, Waihi Beach	
PURCHASE PRICE Tangible Assets: Intangible Assets: Stock in Trade: TOTAL PURCHASE PRICE _____ (plus GST, if any (clauses 11.0 and 12.0)) Deposit:	
The Vendor is registered under the GST Act in respect of the transaction evidenced by this agreement and/or will be so registered at settlement. Yes/No—	
WARNING: The parties should seek legal and tax advice before entering into this agreement, in particular in respect of GST if there is any form of residential accommodation included in the supply. The incidence of tax and GST may be affected by the way in which this agreement is worded and by the tax status and intentions of the parties to it.	
Settlement date (subclause 3.1): 1 March 2018	Possession time (subclause 3.1): 10.00am
GST date (clauses 11.0 and 12.0): 9 March 2018	Interest rate for late settlement: 12 % p.a. (subclauses 3.7, 3.8, 3.9, 9.4(3), 11.4(3))
Maximum percentage stock value adjustment (subclauses 5.3 and 6.2(1)): 10 %	
Turnover warranty (subclause 6.5): \$ 2,344,699 in respect of Waihi Beach Resort Ltd & Waihi Beach Hotel Bistro Limited (excluding GST) covering the period from: 1 April 2016 to: 31 March 2017	

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Vendor's assistance period (subclause 6.4(5)): 10	working days after settlement
Vendor's restraint of trade (subclauses 7.1 and 7.2) Restraint period: 5 years within (restraint area): 50kms	after settlement

LEASE DETAILS

Landlord: Waihi Beach Investments Limited

Commencement date: 19 December 2014

Term: 6 years

Present rental: \$60,000.00 plus GST per annum (Licenced Tavern) & \$52,173.91 plus GST per annum (Licenced Restaurant & café & motel units)

Right(s) of renewal (if any): 2 rights of renewal of 6 years each

Rent review dates: Rent review - 19 December 2017 & CPI review - 19 Dec 2020, 19 Dec 2023, 19 Dec 2026 & 19 Dec 2029

Date for landlord's consent (subclause 8.4): 15 working days from the date of this agreement

FINANCE CONDITION

Lender: Purchaser's choice

Amount required: \$ Sufficient to complete purchase

Finance date (subclause 8.1): 15 working days from the date of the agreement

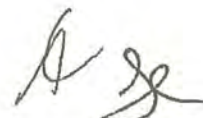
DUE DILIGENCE CONDITION

Due diligence date (subclauses 8.2 and 8.6): 15 working days from the date of this agreement

SALE BY: PRIVATE TREATY

Licensed Real Estate Agent under the Real Estate Agents Act 2008

It is agreed that the vendor sells and the purchaser purchases the business and takes an assignment of the lease of the premises (if any) on the terms set out above and in the general terms of sale and in any further terms of sale and the schedules to this agreement.



GENERAL TERMS OF SALE**1.0 Definitions, notices, and Interpretation****1.1 Definitions**

- (1) Unless the context requires a different interpretation, words and phrases not otherwise defined have the same meaning as in section 4 of the Property Law Act 2007.
- (2) "Agreement" means this document including the first two pages, these general terms of sale, any further terms of sale, and any schedules and attachments.
- (3) "Assets" means, collectively, the tangible assets and the intangible assets including those listed in Schedule 1 of this agreement.
- (4) "Business" means the business described on the front page of this agreement, including the assets.
- (5) "Business records" means all existing books, records, files, and other relevant information (including electronically stored information) concerning the business, including details of staff, customers, suppliers, agents, and distributors, excluding the vendor's personal records.
- (6) "Confidential information" means all financial and other records of the vendor relating to the business, all "know-how," trade secrets, customer and market information, and other information of the business which is special, confidential in nature, or imparted in confidence. Confidential information can be in written or electronic form and may be provided orally. Information which is in the public domain is not confidential information.
- (7) "Default GST" means any interest, or late payment penalty, or shortfall penalty, or other sum imposed on the vendor under the Tax Administration Act 1994 by reason of non-payment of any GST payable in respect of the supply made under this agreement but does not include any such sum levied against the vendor by reason of a default by the vendor after payment of the GST to the vendor by the purchaser.
- (8) "Dispute notice" means a notice setting out details of a dispute in accordance with clause 13.
- (9) "Financial records" means all books and records (which may also be held in an electronic or cloud based format) describing the assets and liabilities and financial performance of a party, including any tax or GST returns or information, and also including any correspondence pertinent to these matters.
- (10) "GST" means Goods and Services Tax arising pursuant to the Goods and Services Tax Act 1985.
- (11) "GST Act" means the Goods and Services Tax Act 1985.
- (12) "Incomings" means all revenue receivable as a result of the trading activities of the business.
- (13) "In-store cost" for the purposes of subclause 5.1 means the actual cost to the business of acquiring the stock in trade.
- (14) "Intangible assets" means the intangible rights, licences, and benefits owned or used by the vendor in respect of the business such as:
 - (a) the vendor's rights under all contracts relating to the supply of goods or services to the vendor in connection with the business which, at the settlement date, remain to be performed in whole or in part;
 - (b) the vendor's rights under any licence agreement or equipment lease entered into in connection with the business which, at the settlement date, remain to be performed in whole or in part;
 - (c) all intellectual property rights and interests owned or held by the vendor, or used by the vendor in connection with the business, including, without limitation, patents, trademarks, copyrights, software, registered designs, trade names, domain names, symbols, logos, and trade secrets, including (unless otherwise agreed) the use of the vendor's company name; and
 - (d) the goodwill of the business including, where applicable, the benefit of the lease.
- (15) "Landlord" means the landlord under a lease and shall include a licensor and any superior landlord or licensor.
- (16) "Lease" means any lease, sublease, or licence to occupy in respect of the premises, and includes any formal or informal document or letter evidencing any variation, renewal, extension, review, or assignment that will be operative at the settlement date.
- (17) "Outgoings" includes any payments made or to be made by the vendor on or before the settlement date in respect of the lease or of goods or services supplied to the vendor in connection with the business (including but not limited to prepayment of advertising, subscriptions, telephone listings, and trade listings), where those goods or services have not been supplied (in whole or in part) by the settlement date or where the vendor has not obtained the full benefit of such services by the settlement date.
- (18) "Party" means a party to this agreement including covenantor(s) and guarantor(s) and "Parties" refers to multiple parties.
- (19) "Possession time" means the time when possession of the business is given and taken under subclause 3.1.
- (20) "Premises" means the premises from which the business is conducted, the address of which is stated on the front page of this agreement.
- (21) "Purchase price" means the total purchase price stated on the front page of this agreement, which the purchaser has agreed to pay the vendor for the business.
- (22) "Restraint area" means the vendor's restraint of trade area described on the second page of this agreement.

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- (23) "Restraint period" means the vendor's restraint of trade period stated on the second page of this agreement.
- (24) "Settlement" means (unless otherwise agreed by the parties in writing) the moment in time when the vendor and purchaser have fulfilled their obligations under subclause 3.5.
- (25) "Settlement date" means the date specified on the front page of this agreement for the parties to perform their obligations under subclause 3.5. Where the day nominated for settlement is not a working day, the settlement date shall be the last working day before the day so nominated.
- (26) "Settlement statement" means a statement showing the purchase price, GST (if any), less any deposit together with apportionments of all incomings and outgoings relating to the sale of the business.
- (27) "Staff" means and includes employees and contractors.
- (28) "Stock in trade" means all inventory of the business held for the purpose of trade. Unless otherwise agreed, stock in trade includes work in progress as at the date of settlement.
- (29) "Tangible assets" means all of the plant, machinery, equipment, furniture, fittings, motor vehicles, and other chattels owned by the vendor (other than stock in trade) at the settlement date and used in connection with the business.
- (30) "Tax invoice" means a document that meets the requirements of section 24 of the GST Act.
- (31) "Trademarks" means names, marks, or logos which are used by the vendor in connection with the business, registered or unregistered.
- (32) "Working day" means any day of the week other than:
- Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day;
 - if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday;
 - a day in the period commencing on the 24th day of December in any year and ending on the 5th day of January in the following year, both days inclusive; and
 - the day observed as the anniversary of any province in which the premises are situated.
- A working day shall be deemed to commence at 9.00 am and to terminate at 5.00 pm.
- (33) Words and phrases defined in the GST Act have the same meanings in clauses 11 and 12 of this agreement.
- (34) Unless a contrary intention appears on the front page or elsewhere in this agreement:
- the interest rate for late settlement is equivalent to the interest rate charged by the Inland Revenue Department on unpaid tax under the Tax Administration Act 1994 during the period for which the interest rate for late settlement is payable, plus 5% per annum; and
 - a party is in default if it did not do what it has contracted to do to enable settlement to occur, regardless of the cause of such failure.

1.2 Time for Performance

- (1) Where the day nominated for settlement or the fulfilment of a condition is not a working day, then the settlement date or the date for fulfilment of the condition shall be the last working day before the day so nominated.
- (2) Any act done pursuant to this agreement by a party, including service of notices, after 5.00 pm on a working day, or on a day that is not a working day, shall be deemed to have been done at 9.00 am on the next succeeding working day.
- (3) Where two or more acts done pursuant to this agreement, including service of notices, are deemed to have been done at the same time, they shall take effect in the order in which they would have taken effect but for subclause 1.2(2).

1.3 Notices

- (1) The following apply to all notices relevant to this agreement, whether authorised by this agreement or by the general law:
- all notices must be served in writing; and
 - any notice under section 28 of the Property Law Act 2007, where the purchaser is in possession of the premises, must be served in accordance with section 353 of that Act.
- (2) All other notices, unless otherwise required by the Property Law Act 2007, must be served by one of the following means:
- on the party as authorised by sections 354 to 361 of the Property Law Act 2007; or
 - on the party or on the party's lawyer:
 - by personal delivery; or
 - by posting by ordinary mail; or
 - by facsimile; or
 - by email; or
 - in the case of the party's lawyer only, by sending by document exchange.
- (3) In respect of the means of service specified in subclause 1.3(2)(b), a notice is deemed to have been served:
- in the case of personal delivery, when received by the party or at the lawyer's office;
 - in the case of posting by ordinary mail, on the third working day following the date of posting to the address for service notified in writing by the party or to the postal address of the lawyer's office;

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- (c) in the case of facsimile transmission, when sent to the facsimile number notified in writing by the party or to the facsimile number of the lawyer's office;
- (d) in the case of email, when acknowledged by the party or by their lawyer by return email or otherwise in writing; and
- (e) in the case of sending by document exchange, on the second working day following the date of sending to the document exchange number of the lawyer's office.
- (4) Any period of notice required to be given under this agreement shall be computed by excluding the date of service.
- 1.4 Interpretation**
- (1) If there is more than one vendor or purchaser, the liability of the vendors or of the purchasers, as the case may be, is joint and several.
- (2) Where the purchaser executes this agreement with provision for a nominee, or as agent for an undisclosed principal, or on behalf of a company to be formed, the purchaser shall at all times remain liable for all of the obligations of the purchaser.
- (3) If any stated term (including any further terms of sale) conflicts with the general terms of sale, the stated term shall prevail.
- (4) Headings are for information only and do not form part of this agreement.
- (5) A reference in this agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- 2.0 Deposit**
- 2.1 The purchaser shall pay the deposit to the vendor or the vendor's agent immediately upon execution of this agreement by both parties or at such other time as is specified in this agreement, time being of the essence.
- 2.2 The vendor shall not be entitled to cancel this agreement for non-payment of the deposit unless the vendor has first given to the purchaser three (3) working days' notice of intention to cancel and the purchaser has failed within that time to remedy the default. No notice of cancellation shall be effective if the deposit has been paid before the notice of cancellation is served.
- 2.3 The deposit shall be in part payment of the purchase price.
- 2.4 Where this agreement is entered into subject to any condition(s), the person to whom the deposit is paid shall hold it as a stakeholder until the agreement becomes unconditional or is cancelled for non-fulfilment of any condition(s) in accordance with subclause 8.5.
- 3.0 Possession and settlement**
- Possession**
- 3.1 Subject to completion of settlement in accordance with subclause 3.5, possession shall be given and taken on the settlement date with effect from the time stipulated on the front page or, where no time is stipulated, with effect from the close of business on the settlement date.
- Settlement**
- 3.2 The vendor shall prepare a settlement statement. The vendor shall tender the settlement statement to the purchaser or the purchaser's lawyer within a reasonable time prior to the settlement date. The settlement statement will include a credit for any deposit paid and an apportionment of incomings and outgoings (unless otherwise agreed as at settlement date).
- 3.3 The purchaser shall at its cost prepare a deed of assignment of the lease (if one is required to assign the lease) within a reasonable time prior to the settlement date. This document shall, unless otherwise agreed, be in the form published by Auckland District Law Society Incorporated as at the settlement date, modified as required, and will in any event contain the indemnities provided in that form. The purchaser, and any guarantor required as a condition of any consent to its assignment, will execute this document and provide it to the vendor (in triplicate or as otherwise required by the agreed manner of its execution) sufficiently prior to the settlement date to enable the vendor and any guarantor(s) to execute it and to procure its execution by the landlord (all at the vendor's cost) to enable settlement to proceed in accordance with subclause 3.5(2)(a).
- 3.4 The vendor will permit the purchaser, or any person authorised by the purchaser in writing, upon reasonable notice and subject to any conditions the vendor may reasonably impose to minimise disruption to the business, to inspect the business on one occasion during the period commencing on the working day after all the conditions of this agreement have been satisfied and ending at 5.00 pm on the working day immediately before the settlement date. The purpose of this right is to enable the purchaser to examine the business, including the tangible assets, to ensure that they are in no lesser condition than as warranted under subclause 6.3(2).

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3.5 On the settlement date:

- (1) The balance of the purchase price, interest, GST, and other moneys, if any, shall be paid by the purchaser in cleared funds or otherwise satisfied as provided in this agreement (credit being given for any amount payable by the vendor under subclause 3.9).
- (2) The vendor shall concurrently deliver to the purchaser:
 - (a) where the purchaser is to have an assignment of the lease, the lease, and a duly executed deed of assignment of the lease in the form described in subclause 3.3, together with the landlord's written consent to the assignment;
 - (b) instruments of title to the assets (if any);
 - (c) a duly executed satisfaction or release of any encumbrance or security interest over any of the assets;
 - (d) duly executed deeds of assignment or other appropriate instruments of transfer in respect of the intangible assets, executed by the vendor and counterparties (where prior written consent to the transfer is required);
 - (e) any duly executed deed of covenant to be provided under subclause 7.3;
 - (f) where any deed is to be delivered to the purchaser under subclause 3.5(2)(a), the vendor must comply with section 9 of the Property Law Act 2007;
 - (g) where it is agreed that the intangible assets include the vendor's rights in its company name, the vendor will immediately after settlement change its company name to a name not including its existing name, and will do all things reasonably required to enable the purchaser, as from settlement, to have unrestricted use of the vendor's company name; and
 - (h) where the intangible assets include unregistered trademarks, the vendor covenants that as from settlement it will immediately cease to use these trademarks and will do all things reasonably required to ensure that the purchaser thereafter has sole rights to use them in connection with the business.
- (3) To the extent that this has not already occurred, the vendor shall deliver to the purchaser:
 - (a) the tangible assets;
 - (b) stock in trade;
 - (c) the business records; and
 - (d) all keys, passwords, security codes, or similar devices relating to the premises or the business.
- (4) The vendor and the purchaser will also do all things reasonably required for the orderly transition of rights and benefits for any of the vendor's staff which are transferring with the business. This will (if that is agreed) include a transfer of holiday pay, sickness and leave entitlements, and any other staff benefits.

3.6 All obligations under subclause 3.5 are interdependent.

Last Minute Settlement

- 3.7 If due to the delay of the purchaser, settlement takes place between 4.00 pm and 5.00 pm on the settlement date ("last minute settlement"), the purchaser shall pay the vendor:
- (1) one day's interest at the interest rate for late settlement on the portion of the purchase price paid in the last minute settlement; and
 - (2) if the day following the last minute settlement is not a working day, an additional day's interest (calculated in the same manner) for each day until, but excluding, the next working day.

Purchaser Default: Late Settlement

- 3.8 If the vendor is not in default and if any portion of the purchase price is not paid upon the due date for payment, the purchaser shall pay to the vendor interest at the interest rate for late settlement on the portion of the purchase price so unpaid from the due date for payment until payment is made; but nevertheless, this stipulation is without prejudice to any of the vendor's rights or remedies including any right to claim for additional expenses and damages. For the purposes of this subclause, a payment made on a day other than a working day or after the termination of a working day shall be deemed to be made on the next following working day and interest shall be computed accordingly. The vendor is not obliged to give the purchaser possession of the business or the premises prior to settlement or to pay the purchaser any amount for remaining in possession.

Vendor Default: Late Settlement or Failure to Give Possession

- 3.9 If by reason of the default of the vendor, possession of the business is not given to the purchaser in accordance with subclause 3.1, and if the purchaser is not in default, then the vendor shall pay to the purchaser, at the purchaser's election, either:
- (1) an amount equivalent to interest at the interest rate for late settlement on the entire purchase price during the default period; or
 - (2) any losses or damages suffered by the purchaser, without prejudice to any other rights or remedies available to the purchaser.

Deferment of Settlement

- 3.10 If neither party is ready, willing, and able to settle on the settlement date, the settlement date shall be deferred to the second working day following the date upon which one of the parties gives notice that it has become ready, willing, and able to settle.

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4.0 Risk and Insurance

- 4.1 The business shall remain at the sole risk of the vendor until possession is given and taken.
- 4.2 If, prior to the giving and taking of possession, any of the tangible assets are lost, destroyed, or damaged and such loss, destruction, or damage ("loss") has not been made good by repair or replacement by the settlement date, then the following provisions shall apply:
- (1) If the loss is sufficient to affect the purchaser materially in the carrying on of the business, the purchaser may:
 - (a) complete the purchase at the purchase price, less a sum equal to any insurance moneys received or receivable by or on behalf of the vendor in respect of such loss; or
 - (b) complete the purchase at the purchase price if the vendor's insurance company has agreed to reinstate the business to its pre-loss condition; or
 - (c) cancel this agreement by serving notice on the vendor whereupon the purchaser shall be entitled to the immediate return of the deposit and any other moneys paid by the purchaser to the vendor, apart from which neither party shall have any right or claim against the other arising from this agreement or its cancellation.
 - (2) If the loss is insufficient to affect the purchaser materially in the carrying on of the business, the purchaser shall complete the purchase at the purchase price less a sum equal to the amount of the diminution in value of the business.

5.0 Stock in trade

- 5.1 Where in this agreement the purchase price is stated as including a sum for stock in trade, that sum is the vendor's estimate of the in-store cost of the stock in trade on the date the vendor executed this agreement and is referred to in this agreement as "the estimated stock value".
- 5.2 The actual value of the stock in trade as at the giving and taking of possession shall be determined by joint stock-take by the vendor and the purchaser or their appointees or, if required by either party, by an independent valuer if one can be agreed upon. Due allowance shall be made for obsolete or damaged stock in trade. If the parties cannot agree on an independent valuer, or in the event of any dispute concerning a joint stock-take, either party may serve on the other party notice in writing requiring that the question be determined by an independent valuer to be appointed by the President for the time being of the New Zealand Law Society and the party serving the notice may at any time thereafter refer the dispute for determination. An independent valuer acting under this clause shall act as an expert in determining any question concerning the stock in trade or the value of the stock in trade. The cost of such valuation shall be borne equally by the parties.
- 5.3 (1) If it is determined that the actual value of the stock in trade exceeds its estimated value by more than the maximum percentage stock value adjustment stated on the front page of this agreement ("the maximum percentage"), then the purchaser:
- (a) shall elect whether or not to accept all or any part of such excess; and
 - (b) may choose which items of stock in trade the vendor shall retain in order to reduce the actual value to the estimated value increased by the relevant maximum percentage.
- (2) Unless the purchaser notifies the vendor of the purchaser's choice of the excess stock in trade to be retained by the vendor within five (5) working days of the determination of the actual stock value, the purchaser shall be deemed to have elected to accept all the stock in trade. If the purchaser elects not to purchase any excess stock, the vendor may dispose of it after settlement and in doing so will not be deemed to be in breach of the vendor's restraint of trade in subclause 7.1.
- 5.4 The vendor shall procure the vendor's lawyer to undertake to the purchaser to retain in trust from the moneys received on settlement a sum equivalent to the total of the maximum percentage of the estimated stock value which sum shall be applied to refund to the purchaser any deficiency in the actual value as compared with the estimated value and any balance shall be paid to the vendor.
- 5.5 The purchaser shall on or before the settlement date pay into the purchaser's lawyer's trust account a sum equivalent to the total of the maximum percentage of the estimated stock value and shall procure the purchaser's lawyer to undertake to retain such sum in trust, and it shall be applied in payment to the vendor of any excess of the actual value over the estimated value. Any balance shall be refunded to the purchaser.
- 5.6 In this agreement where reference is made to the value of stock in trade, such value shall be net of the GST content of any supply made to the vendor of or in relation to that stock in trade.
- 6.0 Vendor's warranties and undertakings
- 6.1 The vendor warrants and undertakes that at the date of this agreement the vendor has not:
- (1) received any notice or demand and has no knowledge of any requisition or outstanding requirement:
 - (a) from any local or government authority or other statutory body; or
 - (b) under the Resource Management Act 1991 and its amendments; or
 - (c) under the Health and Safety at Work Act 2015 and its amendments and related regulations; or

- (d) from the landlord of the premises; or
(e) from any other party,
which adversely affects the business or the premises and which has not been disclosed in writing to the purchaser; or
- (2) given any consent or waiver which adversely affects the business or the premises and which has not been disclosed in writing to the purchaser.
- 6.2 The vendor warrants and undertakes that between the date of this agreement and the giving and taking of possession the vendor shall:
- (1) properly carry on and conserve the business as a going concern and use all reasonable endeavours to maintain the turnover, maintain reasonable levels of stock in trade, and preserve the goodwill of the business (and in any event agrees not to permit stock levels to reduce by more than the maximum percentage stock value adjustment recorded on the front page of this agreement);
 - (2) not enter into any new contracts or arrangements or give any consents or waivers in respect of the business or the premises (other than in the ordinary course of business) without the written consent of the purchaser;
 - (3) promptly pass on to the purchaser or the purchaser's lawyer any notice, demand, or requisition received by the vendor relating to the business or the premises and, if so required by the purchaser, comply with any such notice at the vendor's own cost, prior to settlement;
 - (4) promptly notify the purchaser of any lawsuits, claims, proceedings, investigations, or adverse events which may occur, be threatened, brought, asserted, or commenced against the vendor involving the business or the premises in any way or which may adversely affect the business.
- 6.3 The vendor warrants and undertakes as at the giving and taking of possession that:
- (1) the assets and the stock in trade are the unencumbered property of the vendor;
 - (2) the tangible assets are in the same order and condition as when they were inspected during due diligence (in accordance with subclause 8.2), or if there is no due diligence condition, then their order and condition as at the date of this agreement; and
 - (3) where the vendor has done or caused or permitted to be done on the premises any works for which a permit or building consent was required by law:
 - (a) all required permits or consents were obtained; and
 - (b) the works were completed in compliance with those permits or consents; and
 - (c) where appropriate, a code compliance certificate was issued for those works; and
 - (d) all obligations imposed under the Building Act 1991 and/or the Building Act 2004 have been fully discharged.
- 6.4 The vendor warrants and undertakes that immediately after possession is given and taken:
- (1) The vendor will pay and discharge all debts and liabilities relating to the business incurred or arising prior to the close of business on the settlement date in connection with the business or in respect of any contract dealing or occurrence relating to the business and shall indemnify the purchaser from and against all claims, proceedings, expenses, and costs in connection therewith.
 - (2) Any adjustments will be paid to the dates stated in the settlement statement to be supplied to the purchaser before the settlement date or will be so paid immediately after the settlement date and all incomings will be collected by the vendor to the dates stated in that statement.
 - (3) The vendor will at the vendor's cost do and execute all such acts and deeds as may reasonably be required to enable the purchaser to obtain the full benefit of the business.
 - (4) The vendor will take all reasonable steps to enable the purchaser to have the use and benefit of any means of communicating with the business including but not limited to any telephone number including any mobile telephone number, post office box, domain name, or email address relating to the business.
 - (5) The vendor, or a suitably experienced person nominated by the vendor and acceptable to the purchaser, will, during the vendor's period of assistance stated on the second page of this agreement, give the purchaser to such extent as reasonably required by the purchaser the benefit of the vendor's knowledge and experience in the conduct of the business.
- 6.5 The vendor warrants and undertakes that the turnover warranty details stated on the front page of this agreement correctly disclose the turnover of the business (excluding GST) for the period stated.
- 6.6 Breach of any warranty or undertaking contained in this clause does not defer the obligation to settle. Settlement shall be without prejudice to any rights or remedies available to the parties at law or in equity, including but not limited to the right to cancel this agreement under the Contract and Commercial Law Act 2017.
- 7.0 Restraint of trade
- 7.1 In consideration of the purchase price, the vendor and the covenantor(s) (if any) hereby agree with the purchaser that they will not within the restraint area during the restraint period in their own right or on behalf of any person or entity be directly or indirectly involved or engaged with any business or enterprise that is similar to or competes with the business.

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- 7.2 In addition and as a separate obligation, the vendor and the covenantor(s) will not within the restraint area during the restraint period solicit or entice away from the business, or attempt to do so, any person, persons, or entity who were a customer or employee of the business on the settlement date.
- 7.3 The vendor will on or before the settlement date, if requested to do so by the purchaser or its solicitor, provide to the purchaser or its solicitor a deed, in a form acceptable to them, which binds the vendor and its directors and shareholders to the covenants in subclauses 7.1 and 7.2.
- 7.4 The vendor and the covenantor(s) each acknowledge and agree that their covenants and agreements in this clause 7 are reasonable and necessary to protect the goodwill of the business for the purchaser, are separate and severable from other terms of this agreement, and do not affect their validity or enforceability.
- 7.5 If any of these restrictions are for any reason found to be unenforceable, then they may be modified to such extent as is required for them to be enforced.
- 7.6 The vendor and the covenantor(s) further agree that:
- (1) if there is an alleged breach of these provisions, damages may not be an adequate remedy, and in addition to a claim for damages, the purchaser may seek equitable relief, including an injunction; and
 - (2) the purchaser may assign the benefit of these obligations, in whole or in part; and
 - (3) no failure to enforce any restriction in this clause will be deemed a waiver of that right or affect any other provision.

8.0 Conditions and terms of securities

Particular conditions

- 8.1 If particulars of any finance condition are stated on the second page of this agreement, this agreement is conditional upon the purchaser arranging finance in terms of those particulars on or before the indicated finance date.
- 8.2 If on the second page of this agreement, the parties have by deleting "no" and/or circling "yes" agreed that it is subject to due diligence, then it is conditional upon the purchaser being entirely satisfied with a due diligence investigation of the business by the due diligence date specified on the second page of this agreement. In such event the following shall apply:
- (1) The investigation will consider such aspects of the business as the purchaser reasonably determines are pertinent to evaluate the business, its worth, and the purchaser's decision to buy it and may include (without limitation):
 - (a) age, condition, and functionality of the plant, equipment, and stock;
 - (b) past and potential financial performance of the business;
 - (c) commercial risks to the business including competitors, supplier and customer contracts and relationships, products and/or services, and markets;
 - (d) intellectual property and other contractual entitlements;
 - (e) litigation and insurance risks, and risks to reputation and goodwill of the business;
 - (f) legal framework of the business including regulatory approvals and licences;
 - (g) staff relationships, staff performance, compliance by staff and by the vendor with respect to respective legal and contractual obligations;
 - (h) ability of the vendor to comply with pre-settlement and post settlement obligations; and
 - (i) such other matters as are specific to the business and/or pertinent to the purchaser's evaluation.
 - (2) To enable the purchaser to conduct this investigation, the vendor will, but subject as provided below, as soon as reasonably practicable after this agreement is signed by all parties, provide to the purchaser and any employees, contractors, and advisors of the purchaser authorised by the purchaser in writing to assist it with this investigation, access to all business records and financial records and to the premises and staff; PROVIDED HOWEVER that the vendor may first attach conditions to providing these things which are reasonably required to protect the vendor and the business from loss or harm. These may include requiring any person receiving information to agree to confidentiality obligations and requiring that any access to the premises is only in a way that minimises disruption to the business, and that access to staff occurs only once the purchaser has confirmed all other aspects of due diligence.
 - (3) In any event, the purchaser agrees that in the absence of specific agreement to the contrary any confidential information received by the purchaser in connection with this agreement must only be used for the purpose for which it was disclosed and must be returned to its owner when it is no longer required for that purpose; provided however that the purchaser will not have any liability to the vendor or other owner of confidential information if it is required by law to disclose it to another party.
- 8.3 (1) If a lease is to be assigned to the purchaser, then this agreement is subject to the following provisions:
- (a) the vendor shall as soon as practicable after this agreement is signed by all parties deliver a copy of the lease to the purchaser or the purchaser's solicitor;
 - (b) this agreement is conditional upon the purchaser's approval of the lease, such approval not to be unreasonably withheld or delayed; and
 - (c) this condition is for the sole benefit of the purchaser.

- (2) If the purchaser does not approve the lease, the purchaser shall give notice to the vendor (a "purchaser's notice") on or before the fifth working day after either the date of this agreement or the date of delivery of the lease in terms of subclause 8.3(1) (whichever is the later), stating the particular matters in respect of which approval is withheld, and if those matters are capable of remedy, what the purchaser requires to be done to remedy those matters. If the purchaser does not give a purchaser's notice, the purchaser shall be deemed to have accepted the lease in all respects.
- (3) The vendor shall give notice to the purchaser (a "vendor's notice") on or before the third working day after receipt of the purchaser's notice advising whether or not the vendor is able and willing to comply with the purchaser's notice by the settlement date.
- (4) If the vendor does not give a vendor's notice, or if the vendor's notice advises that the vendor is unable or unwilling to comply with the purchaser's notice, and if the purchaser does not, on or before the fifth working day after the date on which the purchaser's notice is given, give notice to the vendor that the purchaser waives the objection to the lease, this condition shall not have been fulfilled and the provisions of subclause 8.5(5) shall apply.
- (5) If the vendor gives a vendor's notice advising that the vendor is able and willing to comply with the purchaser's notice, this condition is deemed to have been fulfilled, and it shall be a requirement that the purchaser's notice shall be complied with before settlement.
- 8.4 In addition to the condition in subclause 8.3(1)(b), this agreement is also subject to a condition that on or before the date for the landlord's consent stated on the second page of this agreement:
- (1) the landlord shall at the vendor's cost consent in writing to the assignment to the purchaser of the vendor's interest in the lease; and
- (2) the vendor shall as soon as it is reasonable seek the landlord's consent to the assignment of the lease and the purchaser shall provide the vendor with all reasonable assistance in this regard, including providing full and prompt responses to the landlord's reasonable requests for information concerning the purchaser and procuring such guarantees of the purchaser's obligations as assignee as the landlord may reasonably require.

Operation of conditions

- 8.5 If this agreement is expressed to be subject, either to the above or to any other condition(s), then in relation to each such condition, the following shall apply unless otherwise expressly provided:
- (1) The condition shall be a condition subsequent.
- (2) The party or parties for whose benefit the condition has been included shall do all things which may reasonably be necessary to enable the condition to be fulfilled by the date for fulfilment.
- (3) Time for fulfilment of any condition and any extended time for fulfilment to a fixed date shall be of the essence.
- (4) The condition shall be deemed not to be fulfilled until notice of the fulfilment has been served by one party on the other party.
- (5) If the condition is not fulfilled by the date for fulfilment, either party may, at any time before the condition is fulfilled or waived, cancel this agreement by giving notice to the other. Upon cancellation of this agreement, the purchaser shall be entitled to the immediate return of the deposit and any other moneys paid by the purchaser to the vendor, and neither party shall have any right or claim against the other arising from this agreement or its cancellation.
- (6) At any time before this agreement is cancelled, either party may waive any condition which is for the sole benefit of that party. Any waiver shall be by notice in writing.
- 8.6 If on the second page of this agreement, in the due diligence condition box, neither "yes" nor "no" has been deleted or circled so that it is unclear whether the parties intend there to be a due diligence condition, then there will be no due diligence condition and subclause 8.2 will not apply. If the parties have indicated an intention that there will be a due diligence condition but no date has been specified for its satisfaction, then it will be required to be satisfied within a reasonable time after the date of this agreement, and in any event not more than ten (10) working days after it is signed by all parties.

Terms of security

- 8.7 Any security to be arranged pursuant to a finance condition shall (subject to any particulars stated in this agreement and to any further terms of sale):
- (1) if it is to be arranged with a lending institution, be on the customary terms and conditions of that institution; and
- (2) if it is not to be arranged with a lending institution, be on such reasonable and usual terms as are normally included in securities of the same rank secured over comparable assets.
- 8.8 The security shall be a security of such type as is appropriate to the class or classes of asset(s) over which the security is to be granted and the legal personality of the purchaser, and in the case of a mortgage of a registrable interest in land shall be a mortgage registrable under the Land Transfer Act 1952.
- 9.0 Notice to complete and remedies on default
- 9.1 (1) If settlement is not completed on the settlement date, either party may at any time thereafter serve on the other party notice ("a settlement notice") to settle in accordance with this clause; but

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- (2) the settlement notice shall be effective only if the party serving it is at the time of service either in all material respects ready, able, and willing to proceed to settle in accordance with the notice, or is not so ready, able, and willing to settle only by reason of the default or omission of the other party.
- (3) If the purchaser is in possession, the vendor's right to cancel this agreement will be subject to sections 28 to 36 of the Property Law Act 2007, and the settlement notice may incorporate or be given with a notice under section 28 of that Act complying with section 29 of that Act.
- 9.2 Subject to subclause 9.1(3), upon service of a settlement notice, the party on whom the notice is served shall settle:
- (1) on or before the twelfth (12th) working day after the date of service of the notice; or
- (2) on the first (1st) working day after the 13th day of January if the period of twelve (12) working days expires during the period commencing on the 6th day of January and ending on the 13th day of January, both days inclusive;
- time being of the essence, but without prejudice to any intermediate right of cancellation by either party.
- 9.3 (1) If this agreement provides for the payment of the purchase price by instalments and the purchaser fails duly and punctually to pay any instalment on or within seven (7) working days from the date on which it fell due for payment, then, whether or not the purchaser is in possession, the vendor may immediately give notice to the purchaser calling up the unpaid balance of the purchase price, which shall upon service of the notice fall immediately due and payable.
- (2) The date of service of the notice under this subclause shall be deemed to be the settlement date for the purposes of subclause 9.1.
- (3) The vendor may give a settlement notice with a notice under this subclause.
- (4) For the purpose of this subclause, a deposit is not an instalment.
- 9.4 If the purchaser does not comply with the terms of the settlement notice served by the vendor, then, subject to subclause 9.1(3):
- (1) without prejudice to any other rights or remedies available to the vendor at law or in equity, the vendor may:
- (a) sue the purchaser for specific performance; or
- (b) cancel this agreement by notice and pursue either or both of the following remedies namely:
- (i) forfeit and retain for the vendor's own benefit the deposit paid by the purchaser, but not exceeding 10% of the purchase price;
- (ii) sue the purchaser for damages.
- (2) If the vendor is entitled to cancel this agreement and the vendor enters into a conditional or unconditional contract for the resale of the business or any part thereof, such entry shall take effect as a cancellation of this agreement by the vendor if this agreement has not previously been cancelled and such resale shall be deemed to have occurred after cancellation.
- (3) The damages claimable by the vendor under subclause 9.4(1)(b)(ii) shall include all damages claimable at common law or in equity and shall also include (but shall not be limited to) any loss incurred by the vendor on any bona fide resale contracted within twelve (12) months from the date by which the purchaser should have settled in compliance with the settlement notice. The amount of that loss may include:
- (a) interest on the unpaid portion of the purchase price at the interest rate for late settlement from the settlement date to the settlement of such resale;
- (b) all costs and expenses reasonably incurred in any resale or attempted resale; and
- (c) all losses incurred by the vendor in carrying on the business from the settlement date to the settlement of such resale.
- (4) The purchaser shall not be entitled to any of the proceeds of resale.
- 9.5 If the vendor does not comply with the terms of a settlement notice served by the purchaser, then, without prejudice to any other rights or remedies available to the purchaser at law or in equity, the purchaser may:
- (1) sue the vendor for specific performance; or
- (2) cancel this agreement by notice and require the vendor to repay to the purchaser any deposit and any other money paid on account of the purchase price and interest on such sum(s) at the interest rate for late settlement from the date or dates of payment by the purchaser until repayment.
- 9.6 The party serving a settlement notice may extend the term of the notice for one or more specifically stated periods of time and thereupon the term of the settlement notice shall be deemed to expire on the last day of the extended period or periods, and the settlement notice shall then operate as though this clause stipulated the extended period(s) of notice in lieu of the period otherwise applicable. Time shall be of the essence accordingly. An extension may be given either before or after the expiry of the period of the notice.
- 9.7 Nothing in this clause shall preclude a party from suing for specific performance without giving a settlement notice.
- 9.8 A party who serves a settlement notice under this clause shall not be in breach of an essential term by reason only of that party's failure to be ready and able to settle upon the expiry of that notice.

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10.0 Non-merger

10.1 The obligations and warranties of the parties in this agreement shall not merge with settlement or with the giving and taking of possession of the business.

11.0 Goods and Services Tax

11.1 Unless stated otherwise in this agreement, the vendor and the purchaser agree that as at the time of supply the transaction recorded in it comprises the supply of a taxable activity that is, or is capable of being carried on as a going concern, and that as a consequence GST is chargeable on the supply at a rate of zero percent.

11.2 Consequently the vendor and the purchaser:

- (1) each warrant that they are, or will by the time of supply be, a registered person; and
- (2) agree that, on or before the time of supply, they will provide proof to the other of that status.

11.3 If it subsequently transpires that GST is payable in respect of the supply, and if on the front page of this agreement the purchase price is stated to be "plus GST", or if the purchaser has otherwise agreed to pay GST in addition to the purchase price (as it is recorded without GST), then any GST which becomes payable in respect of the supply shall be payable in accordance with subclauses 11.4, 11.5, 11.6 and 11.7 below.

- 11.4 (1) If GST is payable in respect of the supply then the purchaser shall pay the GST in one sum on the GST date.
- (2) If a GST date has not been specified in this agreement the GST date shall be the settlement date.
- (3) If any GST is not so paid the purchaser shall pay to the vendor:
 - (a) interest at the interest rate for late settlement calculated on the outstanding GST from the GST date on a daily basis until the GST is paid in full; and
 - (b) any default GST.

11.5 It shall not be a defence to a claim against the purchaser for payment to the vendor of any default GST that the vendor has failed to mitigate the vendor's damages by paying an amount of GST when it fell due under the GST Act.

11.6 Any sum payable under this clause 11 shall, for the purposes of clause 3, be considered part of the purchase price.

11.7 If the supply under this agreement is a taxable supply, then the vendor shall deliver a tax invoice to the purchaser on or before the earlier of the GST date, or such other date as the purchaser is under the GST Act entitled to delivery of a tax invoice.

12.0 Compulsory Zero Rating

12.1 Where the sale evidenced by this agreement includes any interest in land, the purchaser warrants that at settlement:

- (1) they will be a registered person; and
- (2) they intend to use the land for making taxable supplies; and
- (3) they do not intend to use the land or any part of it as a principal place of residence for themselves and/or for any person associated with them under section 2A(1)(c) of the GST Act (persons connected by blood relationship, by marriage civil union or de facto relationship, or by adoption).

12.2 In addition to the warranties in subclause 12.1, the purchaser warrants, in accordance with section 78F(5) of the GST Act, that it is their expectation that at settlement any nominee:

- (1) will be a registered person; and
- (2) will intend to use the land for making taxable supplies; and
- (3) will not intend to use the land or any part of it as a principal place of residence for themselves, and/or for any person associated with them under section 2A(1)(c) of the GST Act.

12.3 In reliance of the warranties in subclauses 12.1 and 12.2, in accordance with section 11(1)(mb) of the GST Act, the compulsory zero rating ("CZR") rules will apply to the supply and GST is payable on the supply at a rate of zero percent.

[WARNING: The warranties in subclauses 12.1(3) and 12.2(3) should be considered carefully if the land (including any leased premises) or any part of it has been or is intended to be used as residential accommodation. If so, seek tax advice before signing.]

13.0 Dispute resolution

13.1 Unless otherwise provided in this agreement, if a party considers that there is a dispute in respect of any matters arising out of, or in connection with it, then that party may give a dispute notice to the other party or parties to the dispute setting out details of the dispute.

13.2 The affected parties will then endeavour in good faith to resolve the dispute between themselves within five (5) working days of the receipt of the dispute notice, failing which the dispute will be resolved by an expert in accordance with the provisions below.

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- 13.3 Except where there is no dispute, or in the case of urgent interlocutory relief, such as an injunction, no party may commence legal proceedings against another party in respect of this agreement without first following the process set out in clause 13.
- 13.4 The expert will be a suitably qualified person agreed by the parties, but if within two (2) working days they cannot agree on the expert, the President for the time being of Auckland District Law Society Incorporated will do so on the application of any party.
- 13.5 The expert may determine the manner in which the determination proceeds and may, at their discretion, accept written and/or oral submissions from a party.
- 13.6 The expert will act as an expert and not as an arbitrator.
- 13.7 The expert must give his or her determination in writing, with reasons.
- 13.8 The parties will bear their own costs and expenses in respect of the determination. The expert's costs will be shared equally between the vendor and the purchaser.
- 13.9 The expert's determination will be final and binding upon the parties.
- 14.0 Announcements
- 14.1 Except as expressly agreed in writing, or as required by law, or to give effect to any provision, no party may make an announcement about this agreement or the transaction described in it or disclose any of its contents to anyone who is not a party.
- 15.0 Agent
- 15.1 If the name of a licensed real estate agent is recorded on this agreement, it is acknowledged that the sale evidenced by this agreement has been made through that agent whom the vendor appoints as agent to effect the sale. The vendor shall pay the agent's charges (including GST) for effecting such sale.
- 15.2 The agent may provide statistical data relating to the sale to the Real Estate Institute of New Zealand Incorporated.
- 16.0 Limitation of Liability
- 16.1 If any person enters into this agreement as trustee of a trust, then:
- (1) the person warrants that:
 - (a) the person has power to enter into this agreement under the terms of the trust;
 - (b) the person has properly signed this agreement in accordance with the terms of the trust;
 - (c) the person has the right to be indemnified from the assets of the trust, and that right has not been lost or impaired by any action of that person including entry into this agreement; and
 - (d) all of the persons who are trustees of the trust have approved entry into this agreement.
 - (2) If that person has no right to or interest in any assets of the trust except in that person's capacity as a trustee of the trust, that person's liability under this agreement will not be personal and unlimited but will be limited to the actual amount recoverable from the assets of the trust from time to time ("the limited amount"). If the right of that person to be indemnified from the trust assets has been lost, that person's liability will become personal but limited to the extent of that part of the limited amount which cannot be recovered from any other person.
- 17.0 Covenantor(s)
- 17.1 The covenantor(s), in consideration of the parties' entry into this agreement for their benefit as shareholders and/or directors of the vendor, each jointly and severally guarantee performance by the vendor of its obligations under this agreement. As a separate and independent obligation, they give all warranties and undertakings of the vendor under this agreement as if they had originally been named as the vendor under it. In the event that the vendor does not meet any obligation, warranty, or undertaking, the covenantor(s) will each, jointly and severally, indemnify the purchaser for any loss, cost, liability, or claim arising as a consequence of that failure.
- 17.2 The covenantor(s) obligations in subclause 17.1 will continue and remain for so long as the vendor has any obligation or liability under this agreement.
- 17.3 The covenantor(s) each agree to enter into a formal deed or deeds to record these obligations (including a deed in restraint of trade as contemplated by subclause 7.3), if required to do so by the purchaser or their solicitor.



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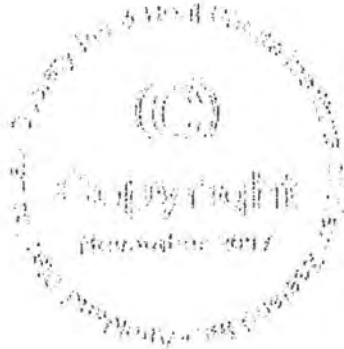
Fourth Edition 2008 (5)

18.0 Guarantor(s)

- 18.1 The guarantor(s), in consideration of the parties' entry into this agreement for their benefit as shareholders and/or directors of the purchaser, each jointly and severally guarantee performance by the purchaser of its obligations under this agreement. As a separate and independent obligation, they give all warranties and undertakings of the purchaser under this agreement as if they had originally been named as purchaser under it. In the event that the purchaser does not meet any obligation, warranty, or undertaking, the guarantor(s) will each, jointly and severally, indemnify the vendor for any loss, cost, liability, or claim arising as a consequence of that failure.
- 18.2 The guarantor(s) obligations in subclause 18.1 will continue and remain for so long as the purchaser has any obligation or liability under this agreement.
- 18.3 The guarantor(s) each agree to enter into a formal deed of guarantee to record these obligations if required to do so by the vendor or their solicitor.

19.0 Counterparts

- 19.1 This agreement may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same agreement. A party may enter into this agreement by signing a counterpart copy and sending it to the other party, including by facsimile or e-mail.



FURTHER TERMS OF SALE**20.0 - Consents and Licences**

This agreement is conditional upon the purchaser obtaining her manager's certificate and all appropriate consents, certificates and licences relating to the business from the Western Bay of Plenty District Council and/or others as may be required. This condition is due 15 working days from the date of the agreement.

21.0 Building Inspection

This agreement is conditional upon the purchaser obtaining a building inspection report and being satisfied with the condition of the leased building(s) on the property by 5pm on the 15th working day from the date of this agreement. In the event that the purchaser is dissatisfied with any aspect of the report the purchaser may by notice in writing terminate this agreement and in such case any deposit paid must immediately be refunded in full. This clause is inserted for the sole benefit of the purchaser.

The vendor undertakes and agrees to:

- (a) allow the building inspector employed by the purchaser full access to the property for the purposes of the inspection; and
- (b) upon request to the purchaser provide any information held on the property relevant to the inspection.

22.0 Employees**22.1**

The Vendor warrants and undertakes that it will terminate employment of all its employees by the possession date and there are no vulnerable employees under the Part 6A of the Employment Relations Act 2000. The Vendor further warrants and undertakes that it will pay and discharge all debts and liabilities due and owing to any of its employees incurred or arising prior to or as at the giving and taking of possession, or which arise as a direct consequence of this Agreement, including any salary or wages, holiday pay, long service leave, redundancy compensation, sick leave and any other bonuses, commissions, allowances and entitlements. Proof of records showing that such payments have been made shall be made available to the Purchaser on the possession date.

22.2

Notwithstanding clause 22.1, the vendor will make available to the purchaser all staff records to enable the purchaser to make an offer of employment to any of the employees.

23.0 Final Stocktake Figure

The vendor and purchaser agree that the final stocktake figure will be obtained by the vendor and purchaser undertaking a stocktake one day before settlement. The final stocktake figure will be the actual stock figure being purchased on settlement but will not exceed \$45,000.00.

24.0 Intellectual property

The vendor agrees that the purchaser shall have the right to use the name "Wailhi Beach Hotel" and any name similar thereto in the conduct of the business from the date of giving and taking of possession hereunder and any proprietary right which the vendor has in the said name or names upon and in consideration of the purchase price hereunder pass to the purchaser.

25.0 Telephone and mobile and facsimile numbers, website and email

The vendor agrees to transfer to the purchaser the existing telephone (mobile/or landline) and facsimile numbers and any website and email addresses for the business and will provide such consents as may be required by the authorities in order to transfer such numbers, websites, domain names and email addresses to the purchaser.

Further Terms of Sale**26.0 Tangible Assets**

Notwithstanding any other provision of this agreement, the Vendor and Purchaser acknowledge and agree that the tangible assets sold pursuant to this agreement are solely the Courtesy Van (at an agreed value of \$5,000).

27.0 Board Approval

This agreement is to be executed by an authorised signatory of the Vendor. Notwithstanding execution by the authorised signatory this agreement is conditional upon the Board of Directors of the Vendor approving the entire agreement and its commercial aspects. If such approval has not been given by the Vendor's Board of Directors in writing within 15 working days from execution by the authorised signatory this contract shall be null and void.

28.0 Lease Variation

This agreement is conditional upon the parties varying the current Leases on terms to the Purchaser's satisfaction. This condition is due 15 working days from the date of the agreement.



SCHEDULE 1

Subclause 1.1(3) – list of tangible and intangible assets

To be provided.

WARNINGS (These warnings do not form part of this agreement.)

1. This is a binding contract. If any party has any doubts, professional advice should be sought before signing.
2. It is recommended that the covenantor(s) and the guarantor(s), (if any) carefully consider their obligations under this agreement and whether they should be independently advised.
3. Consider also whether this agreement should include work in progress: if so, you may need to add further terms of sale.

Signature of Vendor(s)

Director / Trustee / Authorised Signatory / Attorney*
 Delete the options that do not apply
 If no option is deleted, the signatory is signing in their personal capacity

Signature of Purchaser(s)

Director / Trustee / Authorised Signatory / Attorney*
 Delete the options that do not apply
 If no option is deleted, the signatory is signing in their personal capacity

Director / Trustee / Authorised Signatory / Attorney*
 Delete the options that do not apply
 If no option is deleted, the signatory is signing in their personal capacity

Director / Trustee / Authorised Signatory / Attorney*
 Delete the options that do not apply
 If no option is deleted, the signatory is signing in their personal capacity

Signature of Covenantor(s)

Director / Trustee / Authorised Signatory / Attorney*
 Delete the options that do not apply
 If no option is deleted, the signatory is signing in their personal capacity

Signature of Guarantor(s)

Director / Trustee / Authorised Signatory / Attorney*
 Delete the options that do not apply
 If no option is deleted, the signatory is signing in their personal capacity

Director / Trustee / Authorised Signatory / Attorney*
 Delete the options that do not apply
 If no option is deleted, the signatory is signing in their personal capacity

Director / Trustee / Authorised Signatory / Attorney*
 Delete the options that do not apply
 If no option is deleted, the signatory is signing in their personal capacity

* If this agreement is signed under:

- (i) a Power of Attorney – please attach a Certificate of non-revocation (available from ADLS: 4098WFP or REINZ); or
- (ii) an Enduring Power of Attorney – please attach a Certificate of non-revocation and non-suspension of the enduring power of attorney (available from ADLS: 4097WFP or REINZ).

Also insert the following wording for the Attorney's Signature above:
 Signed by [full name of the donor] by his or her Attorney [attorney's signature].

**AGREEMENT FOR SALE AND
PURCHASE OF A BUSINESS**

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DATE:

VENDOR:
Waihi Beach Resort Limited and Waihi Beach Hotel Bistro Limited

Contact Details:

VENDOR'S LAWYERS:

Firm: Friedlander & Co Limited

Individual Acting: Paul Friedlander

Contact Details:

PO Box 42193

AUCKLAND 1745

Ph: (09) 359-9440

Fax: (09) 359-9441

Email: paul@friedlander.co.nz

PURCHASER:
Amy Alicia Barbara Vidler

Contact Details:

PURCHASER'S LAWYERS:

Firm: Clark & Gay

Individual Acting: Gemma Barden

Contact Details:

PO Box 5

WAIHI 3641

DX HA43502

Ph: (07) 863-7250 Fax: (07) 863-8306

Email: gemma@clarkandgay.co.nz

LANDLORD'S LAWYERS:

Firm:

Individual Acting:

Contact Details:

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These forms cannot be distributed or on sold to another party by the purchaser unless the written agreement of ADLS or REINZ has been obtained.

Debbie Coulter

From: ROBERTSON, Brendan <Brendan.Robertson@police.govt.nz>
Sent: Monday, 14 May 2018 2:11 PM
To: Debbie Coulter; PHILLIPS, Greer
Subject: FW: LL7196 - Temp Authority for Waihi Beach Hotel (OFF)
Attachments: A3160956.pdf

Hi

Police have no objections to this application.

Regards

Sergeant Brendan Robertson | **BRI392** | **Relieving O/C Station Waihi**
 **Station 07 863 3710** | **Ext 78710** | **Cell 021 191 1825** | Brendan.Robertson@police.govt.nz

From: Debbie Coulter [mailto:Debbie.Coulter@westernbay.govt.nz]
Sent: Friday, 4 May 2018 4:36 p.m.
To: ROBERTSON, Brendan <Brendan.Robertson@police.govt.nz>
Subject: LL7196 - Temp Authority for Waihi Beach Hotel (OFF)

Hi Brendon

For your report please.

Cheers

Debbie Coulter

Compliance Administration Officer
Kaiwhakarite

P 07 571 8008 • **DD** 07 579 6790
Barkes Corner, Greerton, Tauranga
Private Bag 12803, Tauranga Mail Centre, Tauranga 3143
E debbie.coulter@westernbay.govt.nz
www.westernbay.govt.nz



Te Kaunihera a rohe mai i nga Kuri-a-Whare ki Otamarakau ki te Uru

The information contained in this message (and any accompanying documents) is **CONFIDENTIAL** and may also be **LEGALLY PRIVILEGED**, intended only for the recipient(s) named above.



Temporary Authority Inspector's Report

To: District Licensing Committee

From: Dougal Elvin – Liquor Licensing Inspector

Date: 9 May 2018

Applicant's Name: Vidler Investments Ltd

Premises Address: Waihi Beach Hotel – 60 Wilson Road, Waihi Beach.

Application Number: LL7197 - ON & LL7196 - OFF

Underlying Licence Expires: ON – 12 February 2020. OFF – 12 February 2020.

Number of Applications & Reason 2nd application for a temporary authority as the applicant does not have enough time to apply for the substantive licences before the 1st Temporary Authorities run out.

	Yes	No
Applicant Suitable	✓	
Acceptable Hours	✓	
Sale and Purchase Agreement	✓	
Duty Manager	✓	
Certificate of Incorporation	✓	

Comments:

Background:

This is an application for the 2nd temporary authorities for the On and Off licences for the Waihi Beach Hotel.

The applicant is currently in the process of gathering information for the applications for their own OFF and ON licences. But even if they did apply at this point in time the current temporary authorities would expire before the licences could be granted and issued.

The current (1st) temporary authorities will expire on 31 May 2018.

Current performance under the 1st Temporary Authorities:

The Waihi Beach Hotel has been inspected on 9 March 2018, 6 April 2018 and 9 May 2018.

On all occasions the director has been present and accompanied by a duty manager. All the correct signage was displayed as per the provisions of the Act and the conditions on the licence.

Food, low and non alcoholic drinks were available to purchase. Free water was easily identified as being situated on the end of the bar for all patrons to use. The supervised area of the bar was



appropriately managed, as was the bottle store and restaurant. No offences of any nature were observed. All customers appeared to be relaxed and happy.

No information has come to light to indicate there are any plans or changes expected that would be a cause for concern.

No recent issues have come to light from the Police.

Conclusion:

I do not oppose this application for a temporary authority.

Conditions:

As per the underlying conditions on the substantive off-licence 022/RENOFF/6732/2017 and 022/RENON/6731/2017.

	No Opposition	Opposition
Police Report	✓	
Inspector's Report	✓	

.....
Dougal Elvin
Alcohol Licensing Inspector

Liquor Licence – SASA 2012Application No. LL **7197** Land Parcel ID: **P/1827/6**Name of Applicant: **VIDLER INVESTMENTS LIMITED**Premise: **WAIHI BEACH HOTEL**Type of Application: Renewal **ON**Licence Type: **TEMPORARY AUTHORITY**

REFERRALS			
	Date Referred	Date Received	Objective #
Inspector	04/05/18	10.5.2018	A3166071
Police WB	04/05/18	14/05/18	A3168427
Copy to DLC Commissioner			

Licence no.

Decision no.

Any enquires contact Compliance & Monitoring Administrators



Application for Temporary Authority Section 136, Sale and Supply of Alcohol Act 2012



Application for a temporary authority to operate the existing liquor licence for a premise being purchased / have purchased.

- ▶ ALL questions on the application form must be answered accurately and in full.
- ▶ ALL required documents, as indicated below, must be attached to the application:
 - Evidence of Financial Interest in the premise** - e.g. a copy of sale and purchase agreement signed by both vendor and purchaser, or a copy of an assignment of lease.
 - Copy of the Certificate of Incorporation** – where the applicant is (or involves) a company.
 - Evidence of Formal Partnership** – where the applicant is a partnership of more than two persons/entities.
 - Copy of Manager’s Certificate** – of the person (or persons) intending to be the manager of the premise.
Note: if this document has not been issued at the time of filing this application, the date the manager’s certificate application was filed with this Agency / /
 - Copy of current On or Off Licence**

All applications must be filed a minimum of 20 working days prior to the takeover date

1. Reason for Application

- a. NEW application (OR) RE-APPLICATION (for a further temporary authority due to the current temporary authority expiring)

NOTE: For a re-application, please attach a written explanation why a further temporary authority is required
Letter Attached Yes No

- b. Expiry date of current Temporary Authority 31/05/2018 Number 022/RENON/6731/2017
- c. Takeover / Possession date of premise 16/03/2018
- d. What type is the current liquor licence? On Licence On Licence (BYO only) Off Licence
- e. What is the current liquor licence number? 022/RENON/6731/2017 Expiry Date 1/7/18

Application Fee: \$296.70 (to be paid at the time the application is lodged)

(Office Use Only)		: LIQL
(Date Received) <u>3/5/18</u>	Application <u>7197</u> <u>2018/158598</u> Receipt	Premise No <u>60910</u> Contact ID.

2. Details of Applicant

a. Full name of applicant (legal entity that will receive the proceeds from the sale of liquor)

VIDLER INVESTMENTS LIMITED

Previous / Other names known by

Postal address 60 WILSON ROAD
WAIHI BEACH

Occupation Date of Birth

Contact numbers: Business (07) 867 5402 Private Mobile

Email AMY@WAIHIBEACHHOTEL.CO.NZ Fax

b. Preferred means for formal correspondence Mail Email Fax

3. Further Details where Applicant is a Company/Partnership

a. Incorporation details (please attach copy of certificate of corporation)

Date of Incorporation 07 FEB 2018

Place of Incorporation TAURANUA

b. Full names and dates of birth of each director and the secretary/partner (including previous or other names known by)

Name	Address	Date of Birth	Place of Birth	Position Held
SHAUN VIDLER	174 SEAFORTH RD WAIHI BEACH	12, 10, 1981	AUSTRALIA	DIRECTOR
AMY VIDLER	174 SEAFORTH RD, WAIHI BEACH	24, 02, 1986	WAIHI	DIRECTOR

(NOTE: Continue on a separate page if necessary and attach to this application)

a. Have any persons named on this application been convicted of any offence? Yes No

If Yes, what are the details of each offence?

(NOTE: You are entitled to protection under the Criminal Records (Clean Slate) Act. Disclose only convictions not eligible for concealment under the Clean Slate Act)

Nature of Offence	Date of Conviction	Penalty Suffered

(NOTE: Continue on a separate page if necessary and attach to this application)

4. Details of Premises

- a. Premise name: WAIHI BEACH HOTEL
- b. Premise address: 60 WILSON RD, WAIHI BEACH

5. Details of Conveyance – e.g. boat, bus

(To be included only where the licence applies to any conveyance)

- a. Type of conveyance
- b. Address of home base (if any)
- c. Principal route travelled (if any)
- d. Trading or other name (if any)

6. Further Details

- a. What right, title, estate, or interest do you have in the premise (or conveyance):

Lease Owner of the premise Other (describe)

- b. Details of the main person who intends to be responsible for the sale/supply of liquor on the premise (must be the person who holds or intends to apply for a manager's certificate):

Name Josh Gillespie Occupation Manager

Address HANLEN AVE, WAIHI BEACH

Does this person hold a current manager's certificate? Yes No
(If Yes, attach a copy of the manager's certificate)

What is this person's previous experience in working in licensed premises? 15+ years

- c. Other Manager's details:

Name	Address	Date of Birth	Certificate No.	Expiry Date
<u>Rauhi Whipiana</u>	<u>92 beach rd Waihi Beach</u>	<u>26/06/1992</u>	<u>022/cert/1096/2017</u>	<u>19/07/18</u>
<u>Mercedes Menzies</u>	<u>27 Pio rd - RPI Katikati 3177</u>	<u>02/09/1987</u>	<u>6747/2017</u>	<u>9/3/2020</u>
<u>Matthew Hutchison</u>	<u>022/cert/1109/2017</u>
<u>Marie Harkes</u>	<u>148 Symonds Street Waihi 3610</u>	<u>03/01/69</u>	<u>65/2017</u>	<u>20/10/2020</u>

7. Signature of Applicant

Signature:  Date: 26/04/18
(NOTE: this application must be signed by the applicant personally)

- If applying as a company, state your relationship to the company, e.g. director, secretary

Relationship Director Name Amy Vidler

Pursuant to the Privacy Act 1993, the following is brought to your attention: The personal information contained in this form is being collected to assist Council and other agencies in processing your application and may be made available to the public as part of the process. You do have the right of access to, and correction of, this information subject to the provisions of the Privacy Act 1993

Company Extract

VIDLER INVESTMENTS LIMITED

6693853

NZBN: 9429046584830

Entity Type:	NZ Limited Company
Incorporated:	07 Feb 2018
Current Status:	Registered
Constitution Filed:	Yes
Annual Return Filing Month:	November

Ultimate holding company: No

Company Addresses

Registered Office

SUTCLIFFE GRAHAM & CO LTD, 1181 Cameron Road, Gate Pa, Tauranga, 3112, NZ

Address for Service

SUTCLIFFE GRAHAM & CO LTD, 1181 Cameron Road, Gate Pa, Tauranga, 3112, NZ

Directors

VIDLER, Amy Alicia Barbara
 174 Seaforth Road, Waihi Beach, Waihi Beach, 3611, NZ

VIDLER, Shaun Thomas
 174 Seaforth Road, Waihi Beach, Waihi Beach, 3611, NZ

Shareholdings

Total Number of Shares: 100

Extensive Shareholdings: No

50 VIDLER, Amy Alicia Barbara
 174 Seaforth Road, Waihi Beach, Waihi Beach, 3611, NZ

50 VIDLER, Shaun Thomas
 174 Seaforth Road, Waihi Beach, Waihi Beach, 3611, NZ

Certificate No. 022/CERT/117/2016

Notice of Renewal of Manager's Certificate
Section 226, Sale and Supply of Alcohol Act 2012

JOSHUA KELVIN LYNDON GILLESPIE

Your Manager's Certificate is renewed.

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of Manager's Certificates, this certificate shall expire on **4 October 2019** unless again renewed.

DATED at Tauranga on the 18th day of October 2016.



Secretary

Western Bay of Plenty District Licensing Committee



ADLS REINZ

Fourth Edition 2008 (5)

AGREEMENT FOR SALE AND PURCHASE OF A BUSINESS

This form is approved by the Real Estate Institute of New Zealand Incorporated and by Auckland District Law Society Incorporated

DATE:

VENDOR: Waihi Beach Resort Limited and Waihi Beach Hotel Bistro Limited (GST No:)

COVENANTOR(S):

PURCHASER: Amy Alicia Barbara Vidler (GST No:) and/or nominee

GUARANTOR(S):

BUSINESS	
Description of business (subclause 1.1(4)): Restaurant, Bar, Wholesaler and Accommodation	
Name of business: Waihi Beach Hotel	
Address of business premises: 60 Wilson Road, Waihi Beach	
PURCHASE PRICE	
Tangible Assets:	
Intangible Assets:	
Stock in Trade:	
TOTAL PURCHASE PRICE	(plus GST, if any (clauses 11.0 and 12.0))
Deposit:	
The Vendor is registered under the GST Act in respect of the transaction evidenced by this agreement and/or will be so registered at settlement. Yes/No—	
WARNING: The parties should seek legal and tax advice before entering into this agreement, in particular in respect of GST if there is any form of residential accommodation included in the supply. The incidence of tax and GST may be affected by the way in which this agreement is worded and by the tax status and intentions of the parties to it.	
Settlement date (subclause 3.1): 1 March 2018	Possession time (subclause 3.1): 10.00am
GST date (clauses 11.0 and 12.0): 9 March 2018	Interest rate for late settlement: 12 % p.a. (subclauses 3.7, 3.8, 3.9, 4(3), 11.4(3))
Maximum percentage stock value adjustment (subclauses 5.3 and 6.2(1)): 10 %	
Turnover warranty (subclause 6.5): \$ 2,344,699 in respect of Waihi Beach Resort Ltd & Waihi Beach Hotel Bistro Limited (excluding GST) covering the period from: 1 April 2016 to: 31 March 2017	

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Vendor's assistance period (subclause 6.4(5)): 10 working days after settlement

Vendor's restraint of trade (subclauses 7.1 and 7.2) Restraint period: 5 years after settlement
 within (restraint area): 50kms

LEASE DETAILS

Landlord: Waihi Beach Investments Limited

Commencement date: 19 December 2014

Term: 6 years

Present rental: \$60,000.00 plus GST per annum (Licenced Tavern) & \$52,173.91 plus GST per annum (Licenced Restaurant & café & motel units)

Right(s) of renewal (if any): 2 rights of renewal of 6 years each

Rent review dates: Rent review - 19 December 2017 & CPI review - 19 Dec 2020, 19 Dec 2023, 19 Dec 2026 & 19 Dec 2029

Date for landlord's consent (subclause 8.4): [redacted] from the date of this agreement

FINANCE CONDITION

Lender: Purchaser's choice

Amount required: \$ Sufficient to complete purchase

Finance date (subclause 8.1): [redacted] from the date of the agreement

DUE DILIGENCE CONDITION

Due diligence date (subclauses 8.2 and 8.6): [redacted] from the date of this agreement

SALE BY: PRIVATE TREATY

Licensed Real Estate Agent under the Real Estate Agents Act 2008

It is agreed that the vendor sells and the purchaser purchases the business and takes an assignment of the lease of the premises (if any) on the terms set out above and in the general terms of sale and in any further terms of sale and the schedules to this agreement.

[Handwritten signature]

GENERAL TERMS OF SALE

1.0 Definitions, notices, and Interpretation

1.1 Definitions

- (1) Unless the context requires a different interpretation, words and phrases not otherwise defined have the same meaning as in section 4 of the Property Law Act 2007.
- (2) "Agreement" means this document including the first two pages, these general terms of sale, any further terms of sale, and any schedules and attachments.
- (3) "Assets" means, collectively, the tangible assets and the intangible assets including those listed in Schedule 1 of this agreement.
- (4) "Business" means the business described on the front page of this agreement, including the assets.
- (5) "Business records" means all existing books, records, files, and other relevant information (including electronically stored information) concerning the business, including details of staff, customers, suppliers, agents, and distributors, excluding the vendor's personal records.
- (6) "Confidential information" means all financial and other records of the vendor relating to the business, all "know-how," trade secrets, customer and market information, and other information of the business which is special, confidential in nature, or imparted in confidence. Confidential information can be in written or electronic form and may be provided orally. Information which is in the public domain is not confidential information.
- (7) "Default GST" means any interest, or late payment penalty, or shortfall penalty, or other sum imposed on the vendor under the Tax Administration Act 1994 by reason of non-payment of any GST payable in respect of the supply made under this agreement but does not include any such sum levied against the vendor by reason of a default by the vendor after payment of the GST to the vendor by the purchaser.
- (8) "Dispute notice" means a notice setting out details of a dispute in accordance with clause 13.
- (9) "Financial records" means all books and records (which may also be held in an electronic or cloud based format) describing the assets and liabilities and financial performance of a party, including any tax or GST returns or information, and also including any correspondence pertinent to these matters.
- (10) "GST" means Goods and Services Tax arising pursuant to the Goods and Services Tax Act 1985.
- (11) "GST Act" means the Goods and Services Tax Act 1985.
- (12) "Incomings" means all revenue receivable as a result of the trading activities of the business.
- (13) "In-store cost" for the purposes of subclause 5.1 means the actual cost to the business of acquiring the stock in trade.
- (14) "Intangible assets" means the intangible rights, licences, and benefits owned or used by the vendor in respect of the business such as:
 - (a) the vendor's rights under all contracts relating to the supply of goods or services to the vendor in connection with the business which, at the settlement date, remain to be performed in whole or in part;
 - (b) the vendor's rights under any licence agreement or equipment lease entered into in connection with the business which, at the settlement date, remain to be performed in whole or in part;
 - (c) all intellectual property rights and interests owned or held by the vendor, or used by the vendor in connection with the business, including, without limitation, patents, trademarks, copyrights, software, registered designs, trade names, domain names, symbols, logos, and trade secrets, including (unless otherwise agreed) the use of the vendor's company name; and
 - (d) the goodwill of the business including, where applicable, the benefit of the lease.
- (15) "Landlord" means the landlord under a lease and shall include a licensor and any superior landlord or licensor.
- (16) "Lease" means any lease, sublease, or licence to occupy in respect of the premises, and includes any formal or informal document or letter evidencing any variation, renewal, extension, review, or assignment that will be operative at the settlement date.
- (17) "Outgoings" includes any payments made or to be made by the vendor on or before the settlement date in respect of the lease or of goods or services supplied to the vendor in connection with the business (including but not limited to prepayment of advertising, subscriptions, telephone listings, and trade listings), where those goods or services have not been supplied (in whole or in part) by the settlement date or where the vendor has not obtained the full benefit of such services by the settlement date.
- (18) "Party" means a party to this agreement including covenantor(s) and guarantor(s) and "Parties" refers to multiple parties.
- (19) "Possession time" means the time when possession of the business is given and taken under subclause 3.1.
- (20) "Premises" means the premises from which the business is conducted, the address of which is stated on the front page of this agreement.
- (21) "Purchase price" means the total purchase price stated on the front page of this agreement, which the purchaser has agreed to pay the vendor for the business.
- (22) "Restraint area" means the vendor's restraint of trade area described on the second page of this agreement.

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- (23) "Restraint period" means the vendor's restraint of trade period stated on the second page of this agreement.
- (24) "Settlement" means (unless otherwise agreed by the parties in writing) the moment in time when the vendor and purchaser have fulfilled their obligations under subclause 3.5.
- (25) "Settlement date" means the date specified on the front page of this agreement for the parties to perform their obligations under subclause 3.5. Where the day nominated for settlement is not a working day, the settlement date shall be the last working day before the day so nominated.
- (26) "Settlement statement" means a statement showing the purchase price, GST (if any), less any deposit together with apportionments of all incomings and outgoings relating to the sale of the business.
- (27) "Staff" means and includes employees and contractors.
- (28) "Stock in trade" means all inventory of the business held for the purpose of trade. Unless otherwise agreed, stock in trade includes work in progress as at the date of settlement.
- (29) "Tangible assets" means all of the plant, machinery, equipment, furniture, fittings, motor vehicles, and other chattels owned by the vendor (other than stock in trade) at the settlement date and used in connection with the business.
- (30) "Tax invoice" means a document that meets the requirements of section 24 of the GST Act.
- (31) "Trademarks" means names, marks, or logos which are used by the vendor in connection with the business, registered or unregistered.
- (32) "Working day" means any day of the week other than:
- Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day;
 - if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday;
 - a day in the period commencing on the 24th day of December in any year and ending on the 5th day of January in the following year, both days inclusive; and
 - the day observed as the anniversary of any province in which the premises are situated.
- A working day shall be deemed to commence at 9.00 am and to terminate at 5.00 pm.
- (33) Words and phrases defined in the GST Act have the same meanings in clauses 11 and 12 of this agreement.
- (34) Unless a contrary intention appears on the front page or elsewhere in this agreement:
- the interest rate for late settlement is equivalent to the interest rate charged by the Inland Revenue Department on unpaid tax under the Tax Administration Act 1994 during the period for which the interest rate for late settlement is payable, plus 5% per annum; and
 - a party is in default if it did not do what it has contracted to do to enable settlement to occur, regardless of the cause of such failure.

1.2 Time for Performance

- (1) Where the day nominated for settlement or the fulfilment of a condition is not a working day, then the settlement date or the date for fulfilment of the condition shall be the last working day before the day so nominated.
- (2) Any act done pursuant to this agreement by a party, including service of notices, after 5.00 pm on a working day, or on a day that is not a working day, shall be deemed to have been done at 9.00 am on the next succeeding working day.
- (3) Where two or more acts done pursuant to this agreement, including service of notices, are deemed to have been done at the same time, they shall take effect in the order in which they would have taken effect but for subclause 1.2(2).

1.3 Notices

- (1) The following apply to all notices relevant to this agreement, whether authorised by this agreement or by the general law:
- all notices must be served in writing; and
 - any notice under section 28 of the Property Law Act 2007, where the purchaser is in possession of the premises, must be served in accordance with section 353 of that Act.
- (2) All other notices, unless otherwise required by the Property Law Act 2007, must be served by one of the following means:
- on the party as authorised by sections 354 to 361 of the Property Law Act 2007; or
 - on the party or on the party's lawyer:
 - by personal delivery; or
 - by posting by ordinary mail; or
 - by facsimile; or
 - by email; or
 - in the case of the party's lawyer only, by sending by document exchange.
- (3) In respect of the means of service specified in subclause 1.3(2)(b), a notice is deemed to have been served:
- in the case of personal delivery, when received by the party or at the lawyer's office;
 - in the case of posting by ordinary mail, on the third working day following the date of posting to the address for service notified in writing by the party or to the postal address of the lawyer's office;

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3.5 On the settlement date:

- (1) The balance of the purchase price, interest, GST, and other moneys, if any, shall be paid by the purchaser in cleared funds or otherwise satisfied as provided in this agreement (credit being given for any amount payable by the vendor under subclause 3.9).
- (2) The vendor shall concurrently deliver to the purchaser:
 - (a) where the purchaser is to have an assignment of the lease, the lease, and a duly executed deed of assignment of the lease in the form described in subclause 3.3, together with the landlord's written consent to the assignment;
 - (b) instruments of title to the assets (if any);
 - (c) a duly executed satisfaction or release of any encumbrance or security interest over any of the assets;
 - (d) duly executed deeds of assignment or other appropriate instruments of transfer in respect of the intangible assets, executed by the vendor and counterparties (where prior written consent to the transfer is required);
 - (e) any duly executed deed of covenant to be provided under subclause 7.3;
 - (f) where any deed is to be delivered to the purchaser under subclause 3.5(2)(a), the vendor must comply with section 9 of the Property Law Act 2007;
 - (g) where it is agreed that the intangible assets include the vendor's rights in its company name, the vendor will immediately after settlement change its company name to a name not including its existing name, and will do all things reasonably required to enable the purchaser, as from settlement, to have unrestricted use of the vendor's company name; and
 - (h) where the intangible assets include unregistered trademarks, the vendor covenants that as from settlement it will immediately cease to use these trademarks and will do all things reasonably required to ensure that the purchaser hereafter has sole rights to use them in connection with the business.
- (3) To the extent that this has not already occurred, the vendor shall deliver to the purchaser:
 - (a) the tangible assets;
 - (b) stock in trade;
 - (c) the business records; and
 - (d) all keys, passwords, security codes, or similar devices relating to the premises or the business.
- (4) The vendor and the purchaser will also do all things reasonably required for the orderly transition of rights and benefits for any of the vendor's staff which are transferring with the business. This will (if that is agreed) include a transfer of holiday pay, sickness and leave entitlements, and any other staff benefits.

3.6 All obligations under subclause 3.5 are interdependent.

Last Minute Settlement

- 3.7 If due to the delay of the purchaser, settlement takes place between 4.00 pm and 5.00 pm on the settlement date ("last minute settlement"), the purchaser shall pay the vendor:
 - (1) one day's interest at the interest rate for late settlement on the portion of the purchase price paid in the last minute settlement; and
 - (2) if the day following the last minute settlement is not a working day, an additional day's interest (calculated in the same manner) for each day until, but excluding, the next working day.

Purchaser Default: Late Settlement

- 3.8 If the vendor is not in default and if any portion of the purchase price is not paid upon the due date for payment, the purchaser shall pay to the vendor interest at the interest rate for late settlement on the portion of the purchase price so unpaid from the due date for payment until payment is made; but nevertheless, this stipulation is without prejudice to any of the vendor's rights or remedies including any right to claim for additional expenses and damages. For the purposes of this subclause, a payment made on a day other than a working day or after the termination of a working day shall be deemed to be made on the next following working day and interest shall be computed accordingly. The vendor is not obliged to give the purchaser possession of the business or the premises prior to settlement or to pay the purchaser any amount for remaining in possession.

Vendor Default: Late Settlement or Failure to Give Possession

- 3.9 If by reason of the default of the vendor, possession of the business is not given to the purchaser in accordance with subclause 3.1, and if the purchaser is not in default, then the vendor shall pay to the purchaser, at the purchaser's election, either:
 - (1) an amount equivalent to interest at the interest rate for late settlement on the entire purchase price during the default period; or
 - (2) any losses or damages suffered by the purchaser, without prejudice to any other rights or remedies available to the purchaser.

Deferment of Settlement

- 3.10 If neither party is ready, willing, and able to settle on the settlement date, the settlement date shall be deferred to the second working day following the date upon which one of the parties gives notice that it has become ready, willing, and able to settle.

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4.0 Risk and Insurance

- 4.1 The business shall remain at the sole risk of the vendor until possession is given and taken.
- 4.2 If, prior to the giving and taking of possession, any of the tangible assets are lost, destroyed, or damaged and such loss, destruction, or damage ("loss") has not been made good by repair or replacement by the settlement date, then the following provisions shall apply:
- (1) If the loss is sufficient to affect the purchaser materially in the carrying on of the business, the purchaser may:
 - (a) complete the purchase at the purchase price, less a sum equal to any insurance moneys received or receivable by or on behalf of the vendor in respect of such loss; or
 - (b) complete the purchase at the purchase price if the vendor's insurance company has agreed to reinstate the business to its pre-loss condition; or
 - (c) cancel this agreement by serving notice on the vendor whereupon the purchaser shall be entitled to the immediate return of the deposit and any other moneys paid by the purchaser to the vendor, apart from which neither party shall have any right or claim against the other arising from this agreement or its cancellation.
 - (2) If the loss is insufficient to affect the purchaser materially in the carrying on of the business, the purchaser shall complete the purchase at the purchase price less a sum equal to the amount of the diminution in value of the business.

5.0 Stock in trade

- 5.1 Where in this agreement the purchase price is stated as including a sum for stock in trade, that sum is the vendor's estimate of the in-store cost of the stock in trade on the date the vendor executed this agreement and is referred to in this agreement as "the estimated stock value".
- 5.2 The actual value of the stock in trade as at the giving and taking of possession shall be determined by joint stock-take by the vendor and the purchaser or their appointees or, if required by either party, by an independent valuer if one can be agreed upon. Due allowance shall be made for obsolete or damaged stock in trade. If the parties cannot agree on an independent valuer, or in the event of any dispute concerning a joint stock-take, either party may serve on the other party notice in writing requiring that the question be determined by an independent valuer to be appointed by the President for the time being of the New Zealand Law Society and the party serving the notice may at any time thereafter refer the dispute for determination. An independent valuer acting under this clause shall act as an expert in determining any question concerning the stock in trade or the value of the stock in trade. The cost of such valuation shall be borne equally by the parties.
- 5.3 (1) If it is determined that the actual value of the stock in trade exceeds its estimated value by more than the maximum percentage stock value adjustment stated on the front page of this agreement ("the maximum percentage"), then the purchaser:
 - (a) shall elect whether or not to accept all or any part of such excess; and
 - (b) may choose which items of stock in trade the vendor shall retain in order to reduce the actual value to the estimated value increased by the relevant maximum percentage.
- (2) Unless the purchaser notifies the vendor of the purchaser's choice of the excess stock in trade to be retained by the vendor within five (5) working days of the determination of the actual stock value, the purchaser shall be deemed to have elected to accept all the stock in trade. If the purchaser elects not to purchase any excess stock, the vendor may dispose of it after settlement and in doing so will not be deemed to be in breach of the vendor's restraint of trade in subclause 7.1.
- 5.4 The vendor shall procure the vendor's lawyer to undertake to the purchaser to retain in trust from the moneys received on settlement a sum equivalent to the total of the maximum percentage of the estimated stock value which sum shall be applied to refund to the purchaser any deficiency in the actual value as compared with the estimated value and any balance shall be paid to the vendor.
- 5.5 The purchaser shall on or before the settlement date pay into the purchaser's lawyer's trust account a sum equivalent to the total of the maximum percentage of the estimated stock value and shall procure the purchaser's lawyer to undertake to retain such sum in trust, and it shall be applied in payment to the vendor of any excess of the actual value over the estimated value. Any balance shall be refunded to the purchaser.
- 5.6 In this agreement where reference is made to the value of stock in trade, such value shall be net of the GST content of any supply made to the vendor of or in relation to that stock in trade.
- 6.0 Vendor's warranties and undertakings
- 6.1 The vendor warrants and undertakes that at the date of this agreement the vendor has not:
- (1) received any notice or demand and has no knowledge of any requisition or outstanding requirement:
 - (a) from any local or government authority or other statutory body; or
 - (b) under the Resource Management Act 1991 and its amendments; or
 - (c) under the Health and Safety at Work Act 2015 and its amendments and related regulations; or

- (d) from the landlord of the premises; or
 (e) from any other party,
 which adversely affects the business or the premises and which has not been disclosed in writing to the purchaser; or
 (2) given any consent or waiver which adversely affects the business or the premises and which has not been disclosed in writing to the purchaser.
- 6.2 The vendor warrants and undertakes that between the date of this agreement and the giving and taking of possession the vendor shall:
- (1) properly carry on and conserve the business as a going concern and use all reasonable endeavours to maintain the turnover, maintain reasonable levels of stock in trade, and preserve the goodwill of the business (and in any event agrees not to permit stock levels to reduce by more than the maximum percentage stock value adjustment recorded on the front page of this agreement);
 - (2) not enter into any new contracts or arrangements or give any consents or waivers in respect of the business or the premises (other than in the ordinary course of business) without the written consent of the purchaser;
 - (3) promptly pass on to the purchaser or the purchaser's lawyer any notice, demand, or requisition received by the vendor relating to the business or the premises and, if so required by the purchaser, comply with any such notice at the vendor's own cost, prior to settlement;
 - (4) promptly notify the purchaser of any lawsuits, claims, proceedings, investigations, or adverse events which may occur, be threatened, brought, asserted, or commenced against the vendor involving the business or the premises in any way or which may adversely affect the business.
- 6.3 The vendor warrants and undertakes as at the giving and taking of possession that:
- (1) the assets and the stock in trade are the unencumbered property of the vendor;
 - (2) the tangible assets are in the same order and condition as when they were inspected during due diligence (in accordance with subclause 8.2), or if there is no due diligence condition, then their order and condition as at the date of this agreement; and
 - (3) where the vendor has done or caused or permitted to be done on the premises any works for which a permit or building consent was required by law:
 - (a) all required permits or consents were obtained; and
 - (b) the works were completed in compliance with those permits or consents; and
 - (c) where appropriate, a code compliance certificate was issued for those works; and
 - (d) all obligations imposed under the Building Act 1991 and/or the Building Act 2004 have been fully discharged.
- 6.4 The vendor warrants and undertakes that immediately after possession is given and taken:
- (1) The vendor will pay and discharge all debts and liabilities relating to the business incurred or arising prior to the close of business on the settlement date in connection with the business or in respect of any contract dealing or occurrence relating to the business and shall indemnify the purchaser from and against all claims, proceedings, expenses, and costs in connection therewith.
 - (2) Any adjustments will be paid to the dates stated in the settlement statement to be supplied to the purchaser before the settlement date or will be so paid immediately after the settlement date and all incomings will be collected by the vendor to the dates stated in that statement.
 - (3) The vendor will at the vendor's cost do and execute all such acts and deeds as may reasonably be required to enable the purchaser to obtain the full benefit of the business.
 - (4) The vendor will take all reasonable steps to enable the purchaser to have the use and benefit of any means of communicating with the business including but not limited to any telephone number including any mobile telephone number, post office box, domain name, or email address relating to the business.
 - (5) The vendor, or a suitably experienced person nominated by the vendor and acceptable to the purchaser, will, during the vendor's period of assistance stated on the second page of this agreement, give the purchaser to such extent as reasonably required by the purchaser the benefit of the vendor's knowledge and experience in the conduct of the business.
- 6.5 The vendor warrants and undertakes that the turnover warranty details stated on the front page of this agreement correctly disclose the turnover of the business (excluding GST) for the period stated.
- 6.6 Breach of any warranty or undertaking contained in this clause does not defer the obligation to settle. Settlement shall be without prejudice to any rights or remedies available to the parties at law or in equity, including but not limited to the right to cancel this agreement under the Contract and Commercial Law Act 2017.
- 7.0 Restraint of trade
- 7.1 In consideration of the purchase price, the vendor and the covenantor(s) (if any) hereby agree with the purchaser that they will not within the restraint area during the restraint period in their own right or on behalf of any person or entity be directly or indirectly involved or engaged with any business or enterprise that is similar to or competes with the business.

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- 7.2 In addition and as a separate obligation, the vendor and the covenantor(s) will not within the restraint area during the restraint period solicit or entice away from the business, or attempt to do so, any person, persons, or entity who were a customer or employee of the business on the settlement date.
- 7.3 The vendor will on or before the settlement date, if requested to do so by the purchaser or its solicitor, provide to the purchaser or its solicitor a deed, in a form acceptable to them, which binds the vendor and its directors and shareholders to the covenants in subclauses 7.1 and 7.2.
- 7.4 The vendor and the covenantor(s) each acknowledge and agree that their covenants and agreements in this clause 7 are reasonable and necessary to protect the goodwill of the business for the purchaser, are separate and severable from other terms of this agreement, and do not affect their validity or enforceability.
- 7.5 If any of these restrictions are for any reason found to be unenforceable, then they may be modified to such extent as is required for them to be enforced.
- 7.6 The vendor and the covenantor(s) further agree that:
- (1) if there is an alleged breach of these provisions, damages may not be an adequate remedy, and in addition to a claim for damages, the purchaser may seek equitable relief, including an injunction; and
 - (2) the purchaser may assign the benefit of these obligations, in whole or in part; and
 - (3) no failure to enforce any restriction in this clause will be deemed a waiver of that right or affect any other provision.

8.0 Conditions and terms of securities

Particular conditions

- 8.1 If particulars of any finance condition are stated on the second page of this agreement, this agreement is conditional upon the purchaser arranging finance in terms of those particulars on or before the indicated finance date.
- 8.2 If on the second page of this agreement, the parties have by deleting "no" and/or circling "yes" agreed that it is subject to due diligence, then it is conditional upon the purchaser being entirely satisfied with a due diligence investigation of the business by the due diligence date specified on the second page of this agreement. In such event the following shall apply:
- (1) The investigation will consider such aspects of the business as the purchaser reasonably determines are pertinent to evaluate the business, its worth, and the purchaser's decision to buy it and may include (without limitation):
 - (a) age, condition, and functionality of the plant, equipment, and stock;
 - (b) past and potential financial performance of the business;
 - (c) commercial risks to the business including competitors, supplier and customer contracts and relationships, products and/or services, and markets;
 - (d) intellectual property and other contractual entitlements;
 - (e) litigation and insurance risks, and risks to reputation and goodwill of the business;
 - (f) legal framework of the business including regulatory approvals and licences;
 - (g) staff relationships, staff performance, compliance by staff and by the vendor with respect to respective legal and contractual obligations;
 - (h) ability of the vendor to comply with pre-settlement and post settlement obligations; and
 - (i) such other matters as are specific to the business and/or pertinent to the purchaser's evaluation.
 - (2) To enable the purchaser to conduct this investigation, the vendor will, but subject as provided below, as soon as reasonably practicable after this agreement is signed by all parties, provide to the purchaser and any employees, contractors, and advisors of the purchaser authorised by the purchaser in writing to assist it with this investigation, access to all business records and financial records and to the premises and staff; PROVIDED HOWEVER that the vendor may first attach conditions to providing these things which are reasonably required to protect the vendor and the business from loss or harm. These may include requiring any person receiving information to agree to confidentiality obligations and requiring that any access to the premises is only in a way that minimises disruption to the business, and that access to staff occurs only once the purchaser has confirmed all other aspects of due diligence.
 - (3) In any event, the purchaser agrees that in the absence of specific agreement to the contrary any confidential information received by the purchaser in connection with this agreement must only be used for the purpose for which it was disclosed and must be returned to its owner when it is no longer required for that purpose; provided however that the purchaser will not have any liability to the vendor or other owner of confidential information if it is required by law to disclose it to another party.
- 8.3 (1) If a lease is to be assigned to the purchaser, then this agreement is subject to the following provisions:
- (a) the vendor shall as soon as practicable after this agreement is signed by all parties deliver a copy of the lease to the purchaser or the purchaser's solicitor;
 - (b) this agreement is conditional upon the purchaser's approval of the lease, such approval not to be unreasonably withheld or delayed; and
 - (c) this condition is for the sole benefit of the purchaser.

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- (2) If the purchaser does not approve the lease, the purchaser shall give notice to the vendor (a "purchaser's notice") on or before the fifth working day after either the date of this agreement or the date of delivery of the lease in terms of subclause 8.3(1) (whichever is the later), stating the particular matters in respect of which approval is withheld, and if those matters are capable of remedy, what the purchaser requires to be done to remedy those matters. If the purchaser does not give a purchaser's notice, the purchaser shall be deemed to have accepted the lease in all respects.
- (3) The vendor shall give notice to the purchaser (a "vendor's notice") on or before the third working day after receipt of the purchaser's notice advising whether or not the vendor is able and willing to comply with the purchaser's notice by the settlement date.
- (4) If the vendor does not give a vendor's notice, or if the vendor's notice advises that the vendor is unable or unwilling to comply with the purchaser's notice, and if the purchaser does not, on or before the fifth working day after the date on which the purchaser's notice is given, give notice to the vendor that the purchaser waives the objection to the lease, this condition shall not have been fulfilled and the provisions of subclause 8.5(5) shall apply.
- (5) If the vendor gives a vendor's notice advising that the vendor is able and willing to comply with the purchaser's notice, this condition is deemed to have been fulfilled, and it shall be a requirement that the purchaser's notice shall be complied with before settlement.
- 8.4 In addition to the condition in subclause 8.3(1)(b), this agreement is also subject to a condition that on or before the date for the landlord's consent stated on the second page of this agreement:
- (1) the landlord shall at the vendor's cost consent in writing to the assignment to the purchaser of the vendor's interest in the lease; and
- (2) the vendor shall as soon as it is reasonable seek the landlord's consent to the assignment of the lease and the purchaser shall provide the vendor with all reasonable assistance in this regard, including providing full and prompt responses to the landlord's reasonable requests for information concerning the purchaser and procuring such guarantees of the purchaser's obligations as assignee as the landlord may reasonably require.

Operation of conditions

- 8.5 If this agreement is expressed to be subject, either to the above or to any other condition(s), then in relation to each such condition, the following shall apply unless otherwise expressly provided:
- (1) The condition shall be a condition subsequent.
- (2) The party or parties for whose benefit the condition has been included shall do all things which may reasonably be necessary to enable the condition to be fulfilled by the date for fulfilment.
- (3) Time for fulfilment of any condition and any extended time for fulfilment to a fixed date shall be of the essence.
- (4) The condition shall be deemed not to be fulfilled until notice of the fulfilment has been served by one party on the other party.
- (5) If the condition is not fulfilled by the date for fulfilment, either party may, at any time before the condition is fulfilled or waived, cancel this agreement by giving notice to the other. Upon cancellation of this agreement, the purchaser shall be entitled to the immediate return of the deposit and any other moneys paid by the purchaser to the vendor, and neither party shall have any right or claim against the other arising from this agreement or its cancellation.
- (6) At any time before this agreement is cancelled, either party may waive any condition which is for the sole benefit of that party. Any waiver shall be by notice in writing.
- 8.6 If on the second page of this agreement, in the due diligence condition box, neither "yes" nor "no" has been deleted or circled so that it is unclear whether the parties intend there to be a due diligence condition, then there will be no due diligence condition and subclause 8.2 will not apply. If the parties have indicated an intention that there will be a due diligence condition but no date has been specified for its satisfaction, then it will be required to be satisfied within a reasonable time after the date of this agreement, and in any event not more than ten (10) working days after it is signed by all parties.

Terms of security

- 8.7 Any security to be arranged pursuant to a finance condition shall (subject to any particulars stated in this agreement and to any further terms of sale):
- (1) if it is to be arranged with a lending institution, be on the customary terms and conditions of that institution; and
- (2) if it is not to be arranged with a lending institution, be on such reasonable and usual terms as are normally included in securities of the same rank secured over comparable assets.
- 8.8 The security shall be a security of such type as is appropriate to the class or classes of asset(s) over which the security is to be granted and the legal personality of the purchaser, and in the case of a mortgage of a registrable interest in land shall be a mortgage registrable under the Land Transfer Act 1952.
- 9.0 Notice to complete and remedies on default
- 9.1 (1) If settlement is not completed on the settlement date, either party may at any time thereafter serve on the other party notice ("a settlement notice") to settle in accordance with this clause; but

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- (2) the settlement notice shall be effective only if the party serving it is at the time of service either in all material respects ready, able, and willing to proceed to settle in accordance with the notice, or is not so ready, able, and willing to settle only by reason of the default or omission of the other party.
- (3) If the purchaser is in possession, the vendor's right to cancel this agreement will be subject to sections 28 to 36 of the Property Law Act 2007, and the settlement notice may incorporate or be given with a notice under section 28 of that Act complying with section 29 of that Act.
- 9.2 Subject to subclause 9.1(3), upon service of a settlement notice, the party on whom the notice is served shall settle:
- (1) on or before the twelfth (12th) working day after the date of service of the notice; or
- (2) on the first (1st) working day after the 13th day of January if the period of twelve (12) working days expires during the period commencing on the 6th day of January and ending on the 13th day of January, both days inclusive; time being of the essence, but without prejudice to any intermediate right of cancellation by either party.
- 9.3 (1) If this agreement provides for the payment of the purchase price by instalments and the purchaser fails duly and punctually to pay any instalment on or within seven (7) working days from the date on which it fell due for payment, then, whether or not the purchaser is in possession, the vendor may immediately give notice to the purchaser calling up the unpaid balance of the purchase price, which shall upon service of the notice fall immediately due and payable.
- (2) The date of service of the notice under this subclause shall be deemed to be the settlement date for the purposes of subclause 9.1.
- (3) The vendor may give a settlement notice with a notice under this subclause.
- (4) For the purpose of this subclause, a deposit is not an instalment.
- 9.4 If the purchaser does not comply with the terms of the settlement notice served by the vendor, then, subject to subclause 9.1(3):
- (1) without prejudice to any other rights or remedies available to the vendor at law or in equity, the vendor may:
- (a) sue the purchaser for specific performance; or
- (b) cancel this agreement by notice and pursue either or both of the following remedies namely:
- (i) forfeit and retain for the vendor's own benefit the deposit paid by the purchaser, but not exceeding 10% of the purchase price;
- (ii) sue the purchaser for damages.
- (2) If the vendor is entitled to cancel this agreement and the vendor enters into a conditional or unconditional contract for the resale of the business or any part thereof, such entry shall take effect as a cancellation of this agreement by the vendor if this agreement has not previously been cancelled and such resale shall be deemed to have occurred after cancellation.
- (3) The damages claimable by the vendor under subclause 9.4(1)(b)(ii) shall include all damages claimable at common law or in equity and shall also include (but shall not be limited to) any loss incurred by the vendor on any bona fide resale contracted within twelve (12) months from the date by which the purchaser should have settled in compliance with the settlement notice. The amount of that loss may include:
- (a) interest on the unpaid portion of the purchase price at the interest rate for late settlement from the settlement date to the settlement of such resale;
- (b) all costs and expenses reasonably incurred in any resale or attempted resale; and
- (c) all losses incurred by the vendor in carrying on the business from the settlement date to the settlement of such resale.
- (4) The purchaser shall not be entitled to any of the proceeds of resale.
- 9.5 If the vendor does not comply with the terms of a settlement notice served by the purchaser, then, without prejudice to any other rights or remedies available to the purchaser at law or in equity, the purchaser may:
- (1) sue the vendor for specific performance; or
- (2) cancel this agreement by notice and require the vendor to repay to the purchaser any deposit and any other money paid on account of the purchase price and interest on such sum(s) at the interest rate for late settlement from the date or dates of payment by the purchaser until repayment.
- 9.6 The party serving a settlement notice may extend the term of the notice for one or more specifically stated periods of time and thereupon the term of the settlement notice shall be deemed to expire on the last day of the extended period or periods, and the settlement notice shall then operate as though this clause stipulated the extended period(s) of notice in lieu of the period otherwise applicable. Time shall be of the essence accordingly. An extension may be given either before or after the expiry of the period of the notice.
- 9.7 Nothing in this clause shall preclude a party from suing for specific performance without giving a settlement notice.
- 9.8 A party who serves a settlement notice under this clause shall not be in breach of an essential term by reason only of that party's failure to be ready and able to settle upon the expiry of that notice.

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10.0 Non-merger

10.1 The obligations and warranties of the parties in this agreement shall not merge with settlement or with the giving and taking of possession of the business.

11.0 Goods and Services Tax

11.1 Unless stated otherwise in this agreement, the vendor and the purchaser agree that as at the time of supply the transaction recorded in it comprises the supply of a taxable activity that is, or is capable of being carried on as a going concern, and that as a consequence GST is chargeable on the supply at a rate of zero percent.

11.2 Consequently the vendor and the purchaser:

- (1) each warrant that they are, or will by the time of supply be, a registered person; and
- (2) agree that, on or before the time of supply, they will provide proof to the other of that status.

11.3 If it subsequently transpires that GST is payable in respect of the supply, and if on the front page of this agreement the purchase price is stated to be "plus GST", or if the purchaser has otherwise agreed to pay GST in addition to the purchase price (as it is recorded without GST), then any GST which becomes payable in respect of the supply shall be payable in accordance with subclauses 11.4, 11.5, 11.6 and 11.7 below.

- 11.4 (1) If GST is payable in respect of the supply then the purchaser shall pay the GST in one sum on the GST date.
- (2) If a GST date has not been specified in this agreement the GST date shall be the settlement date.
- (3) If any GST is not so paid the purchaser shall pay to the vendor:
 - (a) interest at the interest rate for late settlement calculated on the outstanding GST from the GST date on a daily basis until the GST is paid in full; and
 - (b) any default GST.

11.5 It shall not be a defence to a claim against the purchaser for payment to the vendor of any default GST that the vendor has failed to mitigate the vendor's damages by paying an amount of GST when it fell due under the GST Act.

11.6 Any sum payable under this clause 11 shall, for the purposes of clause 3, be considered part of the purchase price.

11.7 If the supply under this agreement is a taxable supply, then the vendor shall deliver a tax invoice to the purchaser on or before the earlier of the GST date, or such other date as the purchaser is under the GST Act entitled to delivery of a tax invoice.

12.0 Compulsory Zero Rating

12.1 Where the sale evidenced by this agreement includes any interest in land, the purchaser warrants that at settlement:

- (1) they will be a registered person; and
- (2) they intend to use the land for making taxable supplies; and
- (3) they do not intend to use the land or any part of it as a principal place of residence for themselves and/or for any person associated with them under section 2A(1)(c) of the GST Act (persons connected by blood relationship, by marriage civil union or de facto relationship, or by adoption).

12.2 In addition to the warranties in subclause 12.1, the purchaser warrants, in accordance with section 78F(5) of the GST Act, that it is their expectation that at settlement any nominee:

- (1) will be a registered person; and
- (2) will intend to use the land for making taxable supplies; and
- (3) will not intend to use the land or any part of it as a principal place of residence for themselves, and/or for any person associated with them under section 2A(1)(c) of the GST Act.

12.3 In reliance of the warranties in subclauses 12.1 and 12.2, in accordance with section 11(1)(mb) of the GST Act, the compulsory zero rating ("CZR") rules will apply to the supply and GST is payable on the supply at a rate of zero percent.

[WARNING: The warranties in subclauses 12.1(3) and 12.2(3) should be considered carefully if the land (including any leased premises) or any part of it has been or is intended to be used as residential accommodation. If so, seek tax advice before signing.]

13.0 Dispute resolution

13.1 Unless otherwise provided in this agreement, if a party considers that there is a dispute in respect of any matters arising out of, or in connection with it, then that party may give a dispute notice to the other party or parties to the dispute setting out details of the dispute.

13.2 The affected parties will then endeavour in good faith to resolve the dispute between themselves within five (5) working days of the receipt of the dispute notice, failing which the dispute will be resolved by an expert in accordance with the provisions below.

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- 13.3 Except where there is no dispute, or in the case of urgent interlocutory relief, such as an injunction, no party may commence legal proceedings against another party in respect of this agreement without first following the process set out in clause 13.
- 13.4 The expert will be a suitably qualified person agreed by the parties, but if within two (2) working days they cannot agree on the expert, the President for the time being of Auckland District Law Society Incorporated will do so on the application of any party.
- 13.5 The expert may determine the manner in which the determination proceeds and may, at their discretion, accept written and/or oral submissions from a party.
- 13.6 The expert will act as an expert and not as an arbitrator.
- 13.7 The expert must give his or her determination in writing, with reasons.
- 13.8 The parties will bear their own costs and expenses in respect of the determination. The expert's costs will be shared equally between the vendor and the purchaser.
- 13.9 The expert's determination will be final and binding upon the parties.
- 14.0 Announcements**
- 14.1 Except as expressly agreed in writing, or as required by law, or to give effect to any provision, no party may make an announcement about this agreement or the transaction described in it or disclose any of its contents to anyone who is not a party.
- 15.0 Agent**
- 15.1 If the name of a licensed real estate agent is recorded on this agreement, it is acknowledged that the sale evidenced by this agreement has been made through that agent whom the vendor appoints as agent to effect the sale. The vendor shall pay the agent's charges (including GST) for effecting such sale.
- 15.2 The agent may provide statistical data relating to the sale to the Real Estate Institute of New Zealand Incorporated.
- 16.0 Limitation of Liability**
- 16.1 If any person enters into this agreement as trustee of a trust, then:
- (1) the person warrants that:
 - (a) the person has power to enter into this agreement under the terms of the trust;
 - (b) the person has properly signed this agreement in accordance with the terms of the trust;
 - (c) the person has the right to be indemnified from the assets of the trust, and that right has not been lost or impaired by any action of that person including entry into this agreement; and
 - (d) all of the persons who are trustees of the trust have approved entry into this agreement.
 - (2) If that person has no right to or interest in any assets of the trust except in that person's capacity as a trustee of the trust, that person's liability under this agreement will not be personal and unlimited but will be limited to the actual amount recoverable from the assets of the trust from time to time ("the limited amount"). If the right of that person to be indemnified from the trust assets has been lost, that person's liability will become personal but limited to the extent of that part of the limited amount which cannot be recovered from any other person.
- 17.0 Covenantor(s)**
- 17.1 The covenantor(s), in consideration of the parties' entry into this agreement for their benefit as shareholders and/or directors of the vendor, each jointly and severally guarantee performance by the vendor of its obligations under this agreement. As a separate and independent obligation, they give all warranties and undertakings of the vendor under this agreement as if they had originally been named as the vendor under it. In the event that the vendor does not meet any obligation, warranty, or undertaking, the covenantor(s) will each, jointly and severally, indemnify the purchaser for any loss, cost, liability, or claim arising as a consequence of that failure.
- 17.2 The covenantor(s) obligations in subclause 17.1 will continue and remain for so long as the vendor has any obligation or liability under this agreement.
- 17.3 The covenantor(s) each agree to enter into a formal deed or deeds to record these obligations (including a deed in restraint of trade as contemplated by subclause 7.3), if required to do so by the purchaser or their solicitor.

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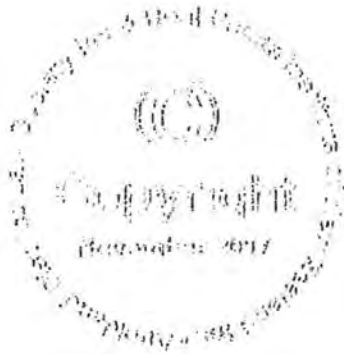
Fourth Edition 2008 (5)

18.0 Guarantor(s)

- 18.1 The guarantor(s), in consideration of the parties' entry into this agreement for their benefit as shareholders and/or directors of the purchaser, each jointly and severally guarantee performance by the purchaser of its obligations under this agreement. As a separate and independent obligation, they give all warranties and undertakings of the purchaser under this agreement as if they had originally been named as purchaser under it. In the event that the purchaser does not meet any obligation, warranty, or undertaking, the guarantor(s) will each, jointly and severally, indemnify the vendor for any loss, cost, liability, or claim arising as a consequence of that failure.
- 18.2 The guarantor(s) obligations in subclause 18.1 will continue and remain for so long as the purchaser has any obligation or liability under this agreement.
- 18.3 The guarantor(s) each agree to enter into a formal deed of guarantee to record these obligations if required to do so by the vendor or their solicitor.

19.0 Counterparts

- 19.1 This agreement may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same agreement. A party may enter into this agreement by signing a counterpart copy and sending it to the other party, including by facsimile or e-mail.



FURTHER TERMS OF SALE**20.0 - Consents and Licences**

This agreement is conditional upon the purchaser obtaining her manager's certificate and all appropriate consents, certificates and licences relating to the business from the Western Bay of Plenty District Council and/or others as may be required. This condition is due to be satisfied within 14 days from the date of the agreement.

21.0 Building Inspection

This agreement is conditional upon the purchaser obtaining a building inspection report and being satisfied with the condition of the leased building(s) on the property by 5pm on the 14th day from the date of this agreement. In the event that the purchaser is dissatisfied with any aspect of the report the purchaser may by notice in writing terminate this agreement and in such case any deposit paid must immediately be refunded in full. This clause is inserted for the sole benefit of the purchaser.

The vendor undertakes and agrees to:

- (a) allow the building inspector employed by the purchaser full access to the property for the purposes of the inspection; and
- (b) upon request to the purchaser provide any information held on the property relevant to the inspection.

22.0 Employees**22.1**

The Vendor warrants and undertakes that it will terminate employment of all its employees by the possession date and there are no vulnerable employees under the Part 6A of the Employment Relations Act 2000. The Vendor further warrants and undertakes that it will pay and discharge all debts and liabilities due and owing to any of its employees incurred or arising prior to or as at the giving and taking of possession, or which arise as a direct consequence of this Agreement, including any salary or wages, holiday pay, long service leave, redundancy compensation, sick leave and any other bonuses, commissions, allowances and entitlements. Proof of records showing that such payments have been made shall be made available to the Purchaser on the possession date.

22.2

Notwithstanding clause 22.1, the vendor will make available to the purchaser all staff records to enable the purchaser to make an offer of employment to any of the employees.

23.0 Final Stocktake Figure

The vendor and purchaser agree that the final stocktake figure will be obtained by the vendor and purchaser undertaking a stocktake one day before settlement. The final stocktake figure will be the actual stock figure being purchased on settlement but will not exceed \$45,000.00.

24.0 Intellectual property

The vendor agrees that the purchaser shall have the right to use the name "Waikanae Beach Hotel" and any name similar thereto in the conduct of the business from the date of giving and taking of possession hereunder and any proprietary right which the vendor has in the said name or names upon and in consideration of the purchase price hereunder pass to the purchaser.

25.0 Telephone and mobile and facsimile numbers, website and email

The vendor agrees to transfer to the purchaser the existing telephone (mobile/or landline) and facsimile numbers and any website and email addresses for the business and will provide such consents as may be required by the authorities in order to transfer such numbers, websites, domain names and email addresses to the purchaser.

Further Terms of Sale**26.0 Tangible Assets**

Notwithstanding any other provision of this agreement, the Vendor and Purchaser acknowledge and agree that the tangible assets sold pursuant to this agreement are solely the Courtesy Van (at an agreed value of \$5,000).

27.0 Board Approval

This agreement is to be executed by an authorised signatory of the Vendor. Notwithstanding execution by the authorised signatory this agreement is conditional upon the Board of Directors of the Vendor approving the entire agreement and its commercial aspects. If such approval has not been given by the Vendor's Board of Directors in writing within ~~working days~~ from execution by the authorised signatory this contract shall be null and void.

28.0 Lease Variation

This agreement is conditional upon the parties varying the current Leases on terms to the Purchaser's satisfaction. This condition is due ~~working days~~ from the date of the agreement.



SCHEDULE 1

Subclause 1.1(3) – list of tangible and intangible assets

To be provided.

WARNINGS (These warnings do not form part of this agreement.)

1. This is a binding contract. If any party has any doubts, professional advice should be sought before signing.
2. It is recommended that the covenantor(s) and the guarantor(s), (if any) carefully consider their obligations under this agreement and whether they should be independently advised.
3. Consider also whether this agreement should include work in progress. If so, you may need to add further terms of sale.

Signature of Vendor(s)

Signature of Purchaser(s):

Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

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Signature of Covenantor(s)

Signature of Guarantor(s)

Director / Trustee / Authorised Signatory / Attorney*
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Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

* If this agreement is signed under:

- (i) a Power of Attorney – please attach a Certificate of non-revocation (available from ADLS: A09BWFP or REINZ); or
- (ii) an Enduring Power of Attorney – please attach a Certificate of non-revocation and non-suspension of the enduring power of attorney (available from ADLS: A097WFP or REINZ).

Also insert the following wording for the Attorney's Signature above:
Signed by [full name of the donor] by his or her Attorney [attorney's signature].

**AGREEMENT FOR SALE AND
PURCHASE OF A BUSINESS**

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DATE:

VENDOR:

Waihi Beach Resort Limited and Waihi Beach Hotel Bistro Limited

Contact Details:

VENDOR'S LAWYERS:

Firm: Friedlander & Co Limited

Individual Acting: Paul Friedlander

Contact Details:

PO Box 42193

AUCKLAND 1745

Ph: (09) 359-9440

Fax: (09) 359-9441

Email: paul@friedlander.co.nz

PURCHASER:

Amy Alicia Barbara Vidler

Contact Details:

PURCHASER'S LAWYERS:

Firm: Clark & Gay

Individual Acting: Gemma Barden

Contact Details:

PO Box 5

WAIHI 3641

DX HA43502

Ph: (07) 863-7250 Fax: (07) 863-8306

Email: gemma@clarkandgay.co.nz

LANDLORD'S LAWYERS:

Firm:

Individual Acting:

Contact Details:

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Waihi Beach Hotel

60 Wilson Road Waihi Beach
(07) 863 5402

Western Bay of Plenty Council
1484 Cameron Road
Tauranga 3143

2nd of May 2018

To whom it may concern,

We wish to apply for an extension to our temporary liquor licence. Our license is due to expire on the 31/05/2018. Our original licence started on the 1/03/2018 and we took over the premises on 16/03/2018. We are requesting an additional 3 months temporary liquor licence as due to takeover we have not been able to complete our application for our full license in time.

Kind regards,

Amy Vidler
Director
Waihi Beach Hotel
0226174400

Debbie Coulter

From: ROBERTSON, Brendan <Brendan.Robertson@police.govt.nz>
Sent: Monday, 14 May 2018 2:09 PM
To: Debbie Coulter; PHILLIPS, Greer
Subject: FW: LL7197 - Temp Authority for Waihi Beach Hotel (ON licence)
Attachments: A3161013.pdf

Hi

Police have no objections to this application.

Regards

Sergeant Brendan Robertson | **BRI392** | **Relieving O/C Station Waihi**
☎ **Station 07 863 3710** | **Ext 78710** | **Cell 021 191 1825** | Brendan.Robertson@police.govt.nz

From: Debbie Coulter [mailto:Debbie.Coulter@westernbay.govt.nz]
Sent: Monday, 7 May 2018 8:06 a.m.
To: ROBERTSON, Brendan <Brendan.Robertson@police.govt.nz>
Subject: LL7197 - Temp Authority for Waihi Beach Hotel (ON licence)

Hi Brendon

For your reports please.

Cheers

Debbie Coulter

Compliance Administration Officer
Kaiwhakarite

P 07 571 8008 • **DD** 07 579 6790
Barkes Corner, Greerton, Tauranga
Private Bag 12803, Tauranga Mail Centre, Tauranga 3143
E debbie.coulter@westernbay.govt.nz
www.westernbay.govt.nz



Te Kaunihera a rohe mai i nga Kuri-a-Whareki ki Otamarakau ki te Uru

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Temporary Authority Inspector's Report

To: District Licensing Committee

From: Dougal Elvin – Liquor Licensing Inspector

Date: 9 May 2018

Applicant's Name: Vidler Investments Ltd

Premises Address: Waihi Beach Hotel – 60 Wilson Road, Waihi Beach.

Application Number: LL7197 - ON & LL7196 - OFF

Underlying Licence Expires: ON – 12 February 2020. OFF – 12 February 2020.

Number of Applications & Reason 2nd application for a temporary authority as the applicant does not have enough time to apply for the substantive licences before the 1st Temporary Authorities run out.

	Yes	No
Applicant Suitable	✓	
Acceptable Hours	✓	
Sale and Purchase Agreement	✓	
Duty Manager	✓	
Certificate of Incorporation	✓	

Comments:

Background:

This is an application for the 2nd temporary authorities for the On and Off licences for the Waihi Beach Hotel.

The applicant is currently in the process of gathering information for the applications for their own OFF and ON licences. But even if they did apply at this point in time the current temporary authorities would expire before the licences could be granted and issued.

The current (1st) temporary authorities will expire on 31 May 2018.

Current performance under the 1st Temporary Authorities:

The Waihi Beach Hotel has been inspected on 9 March 2018, 6 April 2018 and 9 May 2018.

On all occasions the director has been present and accompanied by a duty manager. All the correct signage was displayed as per the provisions of the Act and the conditions on the licence.

Food, low and non alcoholic drinks were available to purchase. Free water was easily identified as being situated on the end of the bar for all patrons to use. The supervised area of the bar was



appropriately managed, as was the bottle store and restaurant. No offences of any nature were observed. All customers appeared to be relaxed and happy.

No information has come to light to indicate there are any plans or changes expected that would be a cause for concern.

No recent issues have come to light from the Police.

Conclusion:

I do not oppose this application for a temporary authority.

Conditions:

As per the underlying conditions on the substantive off-licence 022/RENOFF/6732/2017 and 022/RENON/6731/2017.

	No Opposition	Opposition
Police Report	✓	
Inspector's Report	✓	

.....
Dougal Elvin
Alcohol Licensing Inspector