

LICENCE AGREEMENT FOR LAND

Biddlecombe Avenue North, Geelong Grammar School, Corio

GEELONG GRAMMAR SCHOOL

(Landowner)

FOOD SKIL INC
ABN 91 705 944 048

(Grower)

5SJL:21200502

Harwood Andrews Pty Ltd
ABN 98 076 868 034
70 Cheringhap Street, Geelong 3220, Victoria, Australia
DX 22019 Geelong
PO Box 101 Geelong Vic 3220

Telephone: 03 5225 5225 Facsimile: 03 5225 5222

THIS AGREEMENT is made on

PARTIES:

1. **GEELONG GRAMMAR SCHOOL** of 50 Biddlecombe Avenue, Corio, Victoria 3214 (**Landowner**); and
2. **FOOD SKIL INC** ABN 91 705 944 048 of Unit 1001, Corio Shopping Village, Bacchus Marsh Road, Corio, Victoria, 3214 (**Grower**).

RECITALS:

- R.1. The Landowner is the owner of the Land.
- R.2. The Landowner has agreed to grant a non-exclusive licence of the Gardening Area to the Grower for the purpose of growing fruit and vegetables in or on the Gardening Area.
- R.3. The Landowner and the Grower have agreed to enter into the licence of the Gardening Area on the terms and conditions of this Agreement.

OPERATIVE PART:

1. DEFINITIONS

In this Agreement, unless the context otherwise requires, the following expressions shall have the following meanings.

- 1.1. **Agreement** means this agreement together with all Schedules and all other documents referred to in this Agreement and in the Schedules.
- 1.2. **Crop** means any fruit and vegetables deemed suitable for the Gardening Area by the Grower in accordance with biodynamic principles.
- 1.3. **Gardening Area** means the area of the Land of approximately 31,590 square metres marked in red and identified as Parcel 2 on TP213075S.
- 1.4. **Gardening Hours** means 24 Hours a day, 365 days of the year.
- 1.5. **Land** means the land in certificate of title volume 7032 folio 316 being Parcels 1, 2 and 3 on Title Plan 213075S.
- 1.6. **Permitted Use** means doing all for all reasonable and proper purposes associated with the growing of a Crop in and on the Gardening Area;
- 1.7. **Plan** means the plan in Schedule 2;
- 1.8. **Term** means the period of 5 years commencing on the date of this Agreement; and
- 1.9. **Works** mean any repair, improvement, alterations, construction to buildings or structures or the Land itself.

2. INTERPRETATION

- 2.1. Words importing one gender shall be construed as importing any other gender and words importing the singular shall be construed as importing the plural and vice versa
- 2.2. A reference to a person includes companies and all other legal entities.
- 2.3. Where the Landowner or the Grower comprises more than one person, the obligations and liabilities of that party under this Agreement shall be joint and several obligations and liabilities of those persons.
- 2.4. The Clause headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.
- 2.5. Reference to a Clause or Schedule is to a clause or schedule of this Agreement.

3. LICENCE

- 3.1. The Landowner grants a licence to the Grower to use and access the Gardening Area for the Permitted Use for the Term.
- 3.2. The Landowner will not unnecessarily enter the Gardening Area unless accompanied by the Grower so as to not damage the Crop.

4. CONSIDERATION

Consideration for the Landowner granting the licence in clause 3 is \$1.00 per annum.

5. ACCESS

The Grower and its agents, employees and contractors must only access the Gardening Area via Bell Road and the northern end of Biddlecombe Avenue. No access to the Gardening Area is to be made via the areas of the land occupied by the Landowner for residential and teaching purposes.

6. REPAIR

- 6.1. The Grower must at all times keep the Gardening Area in good repair and condition having regard to its condition at the beginning of this Agreement and free from weeds and other noxious plants.
- 6.2. At the end or earlier termination of the Term, the Grower must make good the Gardening Area so that it is left cleared and tilled.
- 6.3. The Grower must repair any damage to the Land that is caused by the Grower or any person authorised by or under the control of the Grower. If the Grower fails to repair any such damage within seven days after written notice from the Landowner of a requirement to do so, the Landowner may complete such repairs. The Grower must pay the costs incurred by the Landowner to complete such repairs within 7 days written demand by the Landowner.
- 6.4. The Grower must:
 - 6.4.1. keep all ditches maintained and clean;

- 6.4.2. maintain any fences or gates within the Gardening Area in good repair and condition.

7. HOURS OF USE

The Grower will have access to the Gardening Area during the Gardening Hours.

8. NO ASSIGNMENT

The Grower may not sub-let, assign, transfer or part with possession of the Gardening Area or any part of it.

9. CONDITIONS FOR USE OF LAND

9.1. Early termination

Notwithstanding any other provision of this Licence the Landowner and Grower each agree that the other party has the right to terminate the Licence on thirty days written notice without any reason or cause. If a party terminates the Licence then all rights of the other party are at and end other than payment of any money due under the Licence and obligations to remediate the Gardening Area and to remove any waste or rubbish.

9.2. Land management

The Grower must only cultivate the Gardening Area using best industry practice for the cultivation of fruit and vegetables. The Grower must not introduce any chemicals or any other toxic materials to the premises without the prior written consent of the Landowner, which consent may be withheld in the absolute unfettered discretion of the Landowner.

9.3. Waste Removal

During the term the Grower must keep the premises free of all vegetable and other waste and must not allow any obnoxious odours to emanate from the Gardening Area. At the end of the term or earlier termination of the Licence, the Grower must remove all vegetable and waste material from the Gardening Area and must remediate the premises to no lesser condition than the Gardening Area were in at the commencement of the Licence.

9.4. Compliance with policies

At all times the Grower tenant must comply with all policies and directions of the Landowner relating to being on school property including a requirement that all members, staff, employees, agents or contractors of the Grower who attend the Gardening Area:

9.4.1. Must obtain and comply with a "Working with Children" card; and

9.4.2. Must comply with all other policies relating to access to the school property of the Landowner, and comply with any direction given by authorised representation of the Landowner, when on the property of the Landowner.

9.5. The Grower must immediately notify the Landowner if there is any amendment to, restriction or, variation or cancellation of the Working with Children card of any of its members, staff, employee's agents or contractors who attend the Gardening Area.

10. GROWER'S BUILDINGS AND STRUCTURES

- 10.1. The Grower may not erect any building or other structure on the Gardening Area without the prior written consent of the Landowner.
- 10.2. If the Landowner consents to the Grower erecting a building or structure, the Landowner may access the building or structure provided the Landowner does not unreasonably interfere with the use of the building or structure by the Grower.
- 10.3. The Grower must:
 - 10.3.1. provide the Landowner with any key needed to access the building or structure; and
 - 10.3.2. subject to clause 12.4, remove any such building or structure prior to the end of this Agreement and make good any damage to the Gardening Area caused by the building or structure.
- 10.4. Any building or other structure which is erected on the Gardening Area need not be removed at the end of this Agreement provided that the Landowner and Grower both agree to the building or structure remaining.

11. LANDOWNER'S WORKS

- 11.1. The Landowner may undertake Works on the Land (including the Gardening Area) at its discretion PROVIDED:
 - 11.1.1. that the Landowner provides the Grower at least 30 days prior written notice of any Works to be undertaken;
 - 11.1.2. the Works do not derogate from the Grower's rights to use the Gardening Area (except as set out in clause 11.2); and
 - 11.1.3. take all reasonable steps to minimise damage to any Crop in the Gardening Area.
- 11.2. Provided the Landowner complies with clause 11.1, the Grower may not object to any Landowner's Works on the basis that such Works would affect or interfere with the Grower's use of the Gardening Area or the passage of light and air to the Gardening Area.

12. RISK

The Grower occupies the Gardening Area at the Grower's own risk.

13. NO WARRANTY AS TO SUITABILITY

The Grower acknowledges that the Landowner makes no promises, representations, warranties or undertakings whether oral or written given by or on behalf of the Landowner regarding the suitability of the Land, the condition of the Land or the Gardening Area for the Permitted Use.

14. INSURANCE

- 14.1. The Grower at its own expense must take out and keep current Public Liability Insurance for the Land for \$20 million for any single event or any reasonable higher amount that the Landowner may determine from time to time.

- 14.2. On request by the Landowner, the Grower must provide to the Landowner a certificate of currency of the insurance required by clause 14.1.
- 14.3. The Grower must not, and must not let anyone else do anything which might affect any insurance policy relating to the Land by causing:
- 14.3.1. it to become void or voidable;
 - 14.3.2. any claim on it being rejected; or
 - 14.3.3. a premium to be increased.

15. INDEMNITY

- 15.1. The Grower releases the Landowner from and indemnifies and will keep indemnified the Landowner from and against any claim of any nature and howsoever arising from:
- 15.1.1. the use and occupation of the Land and Gardening Area by the Grower, its servants, employees, contractors and agents; and/or
 - 15.1.2. any matter or thing arising from or relating to this Agreement including, but not limited to the failure of any Crop planted by the Grower,
- except where such claims are caused or contributed to by the negligence of the Landowner.
- 15.2. This clause 15 continues after expiry or termination of this Agreement.

16. ENVIRONMENTAL PROTECTION AUTHORITY

- 16.1. **Environmental Protection Authority Act**
The Grower must comply with the provisions of the Environmental Protection Act 1970 and any other act regulation or local law relating to the Grower's use of the Land and Gardening Area.
- 16.2. **Notice or Summons**
- 16.2.1. The Grower must give notice to the Landowner within 24 hours of any requirement, notice, order or summons pursuant to the Environmental Protection Act 1970 relating to the Grower's use of the Gardening Area received by the Grower or of which the Grower becomes aware.
 - 16.2.2. The Grower must comply with any such requirement, notice, order or summons immediately at the Grower's own expense.
- 16.3. **Contamination Obligations**
The Grower must complete any remedial work and be responsible for all associated costs of any remedial work required in relation to contamination to the Gardening Area or arising from the Gardening Area which has been directly caused by the Grower's use of the Gardening Area in breach of the provisions of the Environmental Protection Act 1970, and the Grower indemnifies and will keep the Landowner indemnified in relation to any liability for such contamination.

17. DEFAULT AND TERMINATION

- 17.1. The Landowner may immediately terminate this Agreement by notice in writing to the Grower if:
- 17.1.1. if the Grower breaches any of the conditions and obligations of this Agreement and such breach has not been remedied within 7 business days of written notice by the Landowner; or
 - 17.1.2. if the Grower leaves the Gardening Area untended for more than 1 month at any time in any year.
- 17.2. Termination of this Agreement shall be without prejudice to the rights and remedies of either party against the other in respect of any breach of the provisions of this Agreement during the Term.

18. INTERPRETATIVE PROVISIONS

- 18.1. **Amendment**
This Agreement may not be amended modified or supplemented except by written agreement by the parties or persons duly authorised on behalf of the parties.
- 18.2. **Waiver**
No waiver by any party of any default in the strict and literal performance of or compliance with any provision condition or requirement in this Agreement will be deemed to be a waiver of strict and literal performance of and compliance with any other provision, condition or requirement of this Agreement nor to be a waiver of or in any way release any party from compliance with any provision condition or requirement in the future nor will any delay or omission of any party to exercise any right under this Agreement in any manner impair the exercise of such right accruing to it thereafter.
- 18.3. **Notice**
All notices and other communications provided for or permitted by this Agreement will be sent by prepaid mail, by hand delivery, email or by facsimile to the addresses of the parties as specified in this Agreement or to such other address or person as any party may specify by notice in writing to the other party or parties, and may be sent by an agent of the party sending the notice. Each notice or communication will be deemed to have been duly received:
- 18.3.1. not later than two business days after being deposited in the mail with postage prepaid;
 - 18.3.2. when delivered by hand;
 - 18.3.3. if sent by email upon production of a delivery confirmation report received by the sender which records the time the email was delivered unless the sender received a delivery failure notification; or
 - 18.3.4. if sent by facsimile transmission upon completion of that transmission and production of a transmission report stating that the facsimile was sent to the addressee's facsimile number.
- 18.4. **Costs on Default**
Any party who defaults in the payment of any moneys or in the performance of any obligations under this Agreement will pay to the other party who exercises or attempts to exercise any right power authority or remedy conferred on that party under or by virtue of this Agreement or otherwise the fair and reasonable costs

thereof whether or not any proceedings in any court or tribunal are taken to protect any such right power authority or remedy.

18.5. Jurisdiction

This Agreement will be governed by and construed in accordance with the law of the State of Victoria and each of the parties hereby submits to the jurisdiction of the Courts of the State of Victoria.

18.6. Entire Agreement

This Agreement constitutes the sole and entire agreement between the parties and no warranties, representations, guarantees or other terms or conditions of any nature not contained and recorded therein will be of any force or effect.

18.7. Invalidity of any Clause

Notwithstanding anything to the contrary in this Agreement, if any provision of this Agreement will be invalid and not enforceable in accordance with its terms, all other provisions which are self sustaining and capable of separate enforcement without regard to the invalid provisions will be and continue to be valid and enforceable in accordance with those terms.

18.8. Interpretation

In the interpretation of this Agreement (including its recitals and the schedules) except to the extent that the context otherwise requires:

18.8.1. Words (including defined expressions) denoting the singular will be deemed to include the plural and vice versa.

18.8.2. Words (including defined expressions) denoting any gender will be deemed to include all other genders.

18.8.3. Words (including defined expressions) denoting persons will be deemed to include all trusts, bodies and associations, corporate or unincorporated, and vice versa.

18.8.4. References to a statute or statutory provision will be deemed to include any statutory provision which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same and any orders, regulations, instruments or other subordinate legislation made thereunder.

18.8.5. Headings are included for convenience only and will not affect the interpretation of this Agreement or any schedule.

18.8.6. References to clauses, recitals and schedules are to clauses of, and recitals and schedules to, this Agreement.

18.8.7. References to the parties will include their transferees, heirs, assigns, and liquidators, executors and legal personal representatives as the case may be.

18.8.8. Reference to a document or agreement includes reference to that document or agreement as changed, novated or replaced from time to time;

18.8.9. Where a word or phrase is given a definite meaning in this Agreement a part of speech or other grammatical form for that word or phrase has a corresponding meaning.

18.9. Costs

Each party will bear their own costs in relation to the preparation and execution of this Agreement.

18.10. **Termination or Waiver in Writing**

No termination or attempted waiver of any of the provisions of this Agreement will be binding on a party unless in writing and signed by a duly authorised officer of that party or by that party.

18.11. **Agreement Binding on Successors**

This Agreement will extend to bind the parties and their respective heirs, executors, successors, assigns, administrators and legal personal representatives and any reference to any party will where the context so admit include their respective heirs, executors, successors, assigns, administrators and legal personal representatives.

18.12. **Joint Obligations**

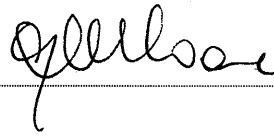
In the case of each party that consists of more than one person (including in that expression any corporation) each of those persons covenants, agrees and declares that all of the covenants, agreements, declarations and consents contained in this Agreement and made and given by that party have been entered into, made and given and are binding upon that person both severally and also jointly with the other person or persons constituting that party.


18.13. **Execution of Further Documents**

Each party to this Agreement agrees to at any time execute all documents and do all things that are reasonably necessary to carry out and give effect to the terms and conditions of this Agreement.

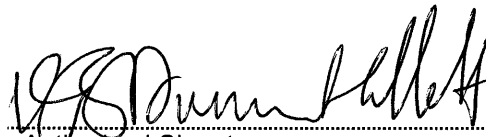
EXECUTED AS AN AGREEMENT

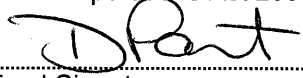
SIGNED by a representative of **GEELONG
GRAMMAR SCHOOL** the presence of:




.....
Witness

EXECUTED by FOOD SKIL INCORPORATED
ABN 91 705 944 048 in accordance with Section
127 of the Corporations Act 2001:


.....
Authorised Signatory


.....
Authorised Signatory
WITNESS

SCHEDULE

PLAN

LANDATA® Land Registry timestamp 21/10/2003 16:37 Page 1 of 1
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TITLE PLAN		EDITION 1	TP 213075S										
Location of Land Parish: MORANGHURK Township: Section: Crown Allotment Crown Portion: 29 (PT) , 30 , 31 (PT)		Notations ANY REFERENCE TO MAP IN THE TEXT MEANS THE DIAGRAM SHOWN ON THIS TITLE PLAN											
Last Plan Reference: Derived From: VOL 7032 FOL 315 Depth Limitation: NIL		THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY, LAND VICTORIA, FOR TITLE DIAGRAM PURPOSES AS PART OF THE LAND TITLES AUTOMATION PROJECT COMPILED: 11/11/1999 VERIFIED: C.L.											
Description of Land / Easement Information													
		TOTAL AREA = 21.69ha											
<table border="1"> <thead> <tr> <th colspan="2">TABLE OF PARCEL IDENTIFIERS</th> </tr> </thead> <tbody> <tr> <td colspan="2">WARNING: Where multiple parcels are referred to or shown on this Title Plan this does not imply separately disposable parcels under Section 8A of the Sale of Land Act 1962</td> </tr> <tr> <td>PARCEL 1</td> <td>= CA 30</td> </tr> <tr> <td>PARCEL 2</td> <td>= CA 29 (PT)</td> </tr> <tr> <td>PARCEL 3</td> <td>= CP 31 (PT)</td> </tr> </tbody> </table>				TABLE OF PARCEL IDENTIFIERS		WARNING: Where multiple parcels are referred to or shown on this Title Plan this does not imply separately disposable parcels under Section 8A of the Sale of Land Act 1962		PARCEL 1	= CA 30	PARCEL 2	= CA 29 (PT)	PARCEL 3	= CP 31 (PT)
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LENGTHS ARE IN METRES	Metres = 0.3048 x Feet Links = 0.201168 x Links	Sheet 1 of 1 sheets											