

Standard Pop Up Retail Terms and Conditions

Dated: 1 July 2016



We grant to you and you take a non-exclusive licence to use the site strictly for the permitted use for the term on the conditions set out in this document.

1 Definitions and interpretation

booking confirmation form	Means the booking confirmation form submitted by us to you and accepted by you prior to the commencement of the term.
we, us, our	Means Lendlease Property Management (Australia) Pty Limited ABN 61 002 894 153 of Level 14, Tower Three, International Towers Sydney, Exchange Place, 300 Barangaroo Avenue, Barangaroo NSW 2000 as agent for the owner. Where relevant, it includes our centre manager, employee, or any person we authorise.
you, your	Means the Licensee described in item 7 of the booking confirmation form. Where relevant, includes your employee, agent, or any person you allow on the licensed area or in the centre.
centre	Means the retail shopping and commercial centre described in the heading of the booking confirmation form, and includes the licensed area, common area, buildings, structures, and property we own or control.
item	Means an item in the booking confirmation form.
owner	Means the owner of the centre, as described in item 6 in the booking confirmation form.
term	Means the term of the licence agreement, as described in item 2 in the booking confirmation form.
licence fee	Means the fee detailed in item 4 in the booking confirmation form.
permitted use	Means the use described in item 11 in the booking confirmation form.
site	Means that part of the centre described in item 5 in the booking confirmation form and includes our property within it.
our property	Means our property inside the licensed area and includes our fixtures, fittings, signs, equipment and goods.
outgoings	Means your contribution to outgoings of the centre, being an amount of \$5 per day.
gross sales	Means the amount you receive as the sale price of all goods sold and the charge for all services provided and includes the sale price for goods sold or the charge for services provided by you or on your behalf on the internet or telephone notwithstanding where those sales occurred or services were provided. The sale price of all goods sold and the charge for all services provided includes all amounts whether received by cash, credit, charge or instalment.
your property	Means your property inside the licensed area and includes your fixtures, fittings, signs, equipment and goods.
term	Means the term described in item 3 in the booking confirmation form.

2 The Licence

- (a) We have entered into a property management agreement with the owner which authorises us, among other things, to enter into, as agent of the owner, casual licence agreements in respect of the centre.
- (b) We grant to you and you take a non-exclusive licence to use the site strictly for the permitted use for the term on the conditions set out in this licence and during such trading hours as we direct from time to time. If you remain in the site with our consent after the expiry date as a monthly or weekly tenant (as determined by us), you may at our discretion occupy the site on the same conditions of this licence except that we or you may end the licence on any day by giving a month's or a week's notice (as determined by us) to the other party.

3 What you must pay us

- (a) If you are a weekly tenant, then you must pay us the total licence fee, outgoings and any other monies for the term in advance at least seven (7) days prior to the commencement of the licence. If you are a monthly tenant, you must pay us the licence fee, outgoings and any other monies monthly in advance as determined by us on the first day of each month. If you are late in paying us any money we may charge daily interest on it at a rate equal to the Westpac Indicator Lending Rate on the day it was due (or equivalent rate).
- (b) Despite any other provision of this licence, if a goods and services tax or similar value added tax ("GST") is imposed on any supply made under or in accordance with this licence, the amount you must pay for that supply is increased by the amount of that GST and is payable at the same time as the payment for the supply.
- (c) If either you or we prove an error in any money charged, we must correct it and make any necessary adjustment in your next monthly statement (or as soon as possible if the licence has expired).

4 You must obey the law

You must obey any law that requires you to do anything concerning the site or this licence.

5 When the licence ends

When the licence ends:

- (a) you must vacate the site and give it back to us in the same condition as determined by us as it was at the date you took possession of the site; and
- (b) you must make sure all your property is removed and repair any damage to the centre or our property caused by such removal.

6 Maintaining the site and your property

You must keep the site clean and tidy and in good and substantial repair, order and condition including carrying out any repairs and fixing any damage you cause. You must not alter the site in any way without our prior consent. You must not do anything that is or may be dangerous, annoying or offensive or that may interfere with other occupiers or people in the centre. You must not obstruct the view (sight lines) of any other premises in the centre. You must conduct your business in a professional manner with quality goods, displays and service in keeping with the standards of the centre.

7 You must have insurance

You must have current public liability insurance for a minimum of \$10,000,000.00 per event for the site and the risks and indemnities in this licence and you must provide us with evidence of the insurance upon our request. You must not do anything that may make our insurance invalid or able to be cancelled, or that may increase our insurance premium.

8 You indemnify us and the owner

You occupy and use the site solely at your own risk. You indemnify us and the owner against any action, demand, cost, liability or loss due to any damage, loss, injury or death, caused or contributed to by:

- (a) your act, omission or negligence; or
- (b) your use and occupation of the site or the centre except to the extent that we or the owner caused this by a wrongful act or negligence.

9 Signage

- a) You must comply with the display and signage guidelines, including (without limitation) getting our consent before you put any signs or advertisements in the site and that all signs or advertisements must be professionally prepared and constructed.
- b) You must at all times display a company name or trading name in the site.

10 How you breach the licence

You breach the licence if you disobey any term of the licence including (without limitation):

- (a) if you do not pay us on time any part of the licence fee; or
- (b) if you use the site for any purpose except for the permitted use.

11 If you breach the licence

- (a) If you breach the licence, we must give you a notice requiring you to remedy the breach.
- (b) If:
 - (i) you breach the licence and do not remedy it as required; or
 - (ii) an order is made or resolution is passed to wind you up; or
 - (iii) an administrator or receiver is appointed to you; or
 - (iv) any act or event mentioned in section 461(1)(a) to (k) of the Corporations Act 2001 occurs in relation to you;then we may do any one or more of the following:
 - (i) end the licence;
 - (ii) recover from you any loss we suffer due to your breach;
 - (iii) remedy the breach at your cost; or
 - (iv) exercise any of our other legal rights.

12 Serving notices

We may serve a notice on you by:

- (a) giving it to you personally; or
- (b) leaving it at the site; or
- (c) leaving it at or posting it to you, or faxing it to your registered office or your business address as last known to us.

13 No representations

You agree that (other than as expressly contained in this licence), no promise, representation, undertaking or warranty given by us or on our behalf has been relied on by you in entering into this licence or has in any material way induced you to enter into this licence. You must disclose to us in writing before you execute this licence any promise, representation, undertaking or warranty that you have relied on in entering into this licence which has in any material way induced you to enter into this licence.

14 No transfer, mortgage or sub-licence

You must not mortgage, charge, grant any security interest, transfer, grant any sub-licence or part with or share possession of the site or your rights under this licence or your property.

15 Limited Liability

- (a) Where the owner (or one or more of the parties constituting the owner) is stated to be acting as responsible entity and/or trustee of a trust ("Trustee Owner") then the Trustee Owner (via its agent Lendlease Property Management (Australia) Pty Ltd) enters into this licence only in its capacity as trustee of the trust (the "Trust") and in no other capacity. A liability arising under or in connection with this licence is limited to and can be enforced against the Trustee Owner only to the extent to which it can be satisfied out of property of the Trust out of which the Trustee Owner is actually indemnified and this limitation of liability applies and extends to all liabilities and obligations of the Trustee Owner in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this licence.
- (b) The parties, other than the Trustee Owner, may not sue the Trustee Owner in any capacity other than as trustee of the Trust, including seeking the appointment of a receiver (except in relation to property of the Trust), a liquidator, an administrator or any similar person to the Trustee Owner or prove in any liquidation, administration or arrangement of or affecting the Trustee Owner (except in relation to property of the Trust).
- (c) The provisions of this clause shall not apply to any obligation or liability of the Trustee Owner to the extent that it is not satisfied because under the constitution establishing the Trust or by operation of law there is a reduction in the extent of the Trustee Owner's indemnification out of the assets of the Trust, as a result of the Trustee Owner's fraud, negligence or breach of trust.

16 Rules

You must obey the centre guidelines and rules and pop up display and signage guidelines. We may change the centre guideline and rules or the pop up display and signage guidelines, as we determine necessary or desirable for the good management of the centre and you must obey those rules or guidelines as amended.

17 Reporting of your gross sales

You must keep accurate, numbered, accounting records of your gross sales, including the number of transactions and when requested by us, you must give us a statement of your gross sales for the month or any part thereof. We may also inspect and audit the records at any reasonable time. Our audit is not confined to the records you provide. We can observe your business to verify the amount of your sales and whether they are being recorded.

18 Relocation

You agree and acknowledge that we can require your business to be relocated to an alternative area in the centre if we give you twenty four (24) hours notice containing details of an alternative area for you, and offering you a new licence of that area on such terms and conditions as we decide. Once you have received our relocation notice, you can either terminate this licence or accept the relocation. If you accept the relocation you must execute a licence of the alternative area. You are not entitled to any compensation or rebate of the licence fee if we exercise our rights under this clause. (This does not apply where the centre is located in WA).

19 No Works

You must not carry out any works within or about the site without our prior written approval.

20 Termination

Notwithstanding any clause in this licence we may at any time upon giving you at least 24 hours notice, terminate this licence. If this licence is terminated under this clause you will be entitled to a pro-rata rebate of the licence fee arising out of the termination, but no compensation or damages. (This does not apply where the centre is located in WA).

21 We may enter

We may enter the site for inspection or to carry out maintenance, repairs or building work and at any reasonable time and with reasonable notice. If there is an emergency we can enter at any time without giving you notice.

22 Sale of Centre

If the owner sells, transfers or assigns all or part of the centre or if we cease to manage the centre, you must, if required by us, execute an agreement in substantially the same form and on the same commercial terms as this agreement with the new transferee, assignee and/or manager.

23 Cancellation

- (a) You may cancel the booking at any time prior to the commencement of the term by written notice to us (cancellation notice), provided that you comply with clause 5 and this clause 23.
- (b) If you cancel the booking less than 14 days prior to the commencement of the term, you acknowledge that the owner will suffer loss which is quantified as 80% of the licence fee as the owner's liquidated damages. You must pay this amount at the same time as you give us the cancellation notice and you authorise us to set off any unpaid balance against any amounts we may hold on your behalf.
- (c) If you cancel the booking 14 days or more prior to the commencement of the term, you acknowledge that the owner will suffer loss which is quantified as 20% of the licence fee as the owner's liquidated damages.
- (d) If you cancel the booking after the commencement of the term, you acknowledge that the owner will suffer loss which is quantified as equal to the full licence fee of your licence, up to a maximum of 4 weeks as the owner's liquidated damages.
- (e) You must pay the amounts described in paragraphs (b), (c) or (d) (as the case may be) at the same time as you give us the cancellation notice and you authorise us to set off any unpaid balance against any amounts we may hold on your behalf.
- (f) If following receipt of your cancellation notice, we are able to find another licensee for the site on the same terms as this licence, we may (in our discretion) reduce the amounts payable under paragraphs (b), (c) and (d) by an amount determined by us.